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Former United Zinc PRP Search Report



726 E. 9th Ave

Anchorage, AK 90501

Former United Zinc Smelter Iola, Allen County, KS **Potentially Responsible Party (PRP) Report**

PREPARED FOR:

U.S. ENVIRONMENTAL AGENCY REGION 7, SUPERFUND DIVISION

901 N. 5th STREET, KANSAS CITY, KANSAS 66101

FINAL July 2010

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0005

Date Submitted:
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Contract Number:
A78QRP00

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POTENTIALLY RESPONSIBLE PARTY SUMMARY

Chenega Global Services, LLC (CGS) received Task Order 0005, Project Code A78QRP00, from the U.S. Environmental Protection Agency (EPA) Region 7 office, under the Superfund Contract Number EP-S7-09-08. The purpose of this task order is to provide EPA's Superfund Division with a vehicle through which to perform expedited site-specific Potentially Responsible Party (PRP) searches in support of the EPA Task Order/Project Officer (TOPO) search activities.

This Potentially Responsible Party Report for the East Iola Smelter Site (the "Site") summarizes the research conducted by the Records Specialists (RS) and Regulatory Analysts (RA) to determine the Site history. The following Potentially Responsible Party Search Report provides for the ownership/lease history, operational information, Site boundaries, and corporate successors of PRPs for the Former United Zinc Site in Allen County, Kansas.

CGS research revealed the following PRPs pursuant to CERCLA Section 107(a) liability law:

PRP	Viability	Reason	CERCLA Liability Law
William Lanyon	No - deceased	Owner: 1901-1902	107(a)(2)
United Zinc & Chemical Company	No - forfeited 1986	Owner: 1900-1915	107(a)(2)
Advance Chemical Distribution, Inc.	Yes - merged in 2001 into Brenntag Southwest, Inc.	Current Owner	107(a)(1)
American Self Storage, LLC	Yes	Current Owner	107(a)(1)
Iola Bank and Trust Company, trustee for James P. McFadden	Unknown	Current Owner	107(a)(1)
City of Iola	Yes	Current Owner	107(a)(1)
MFA Enterprises, Inc.	Yes	Current Owner	107(a)(1)
NL and R Properties, LLC	Yes	Current Owner	107(a)(1)
Dave Sherrill and Jack McFadden	Yes - individuals	Current Owners	107(a)(1)

Table 1: Potentially Responsible Parties



I. INTRODUCTION

PROJECT BACKGROUND

Chenega Global Services, LLC (CGS) received Task Order 0005, Project Code A78QRP00, from the U.S. Environmental Protection Agency (EPA) Region 7 office, under the Superfund Contract Number EP-S7-09-08. The purpose of this task order is to provide EPA's Superfund Division with a vehicle through which to perform expedited site-specific potentially responsible parties (PRPs) in support of the EPA Task Order/Project Officer (TOPO) search activities.

This Potentially Responsible Party Report for the Former United Zinc Site (the "Site") summarizes the research conducted by the Records Specialists (RS) and Regulatory Analysts (RA) to determine the Site history.

PROJECT APPROACH

The U.S. Environmental Protection Agency, Region 7, Superfund Division, Kansas City, Kansas contracted Chenega Global Services, Anchorage, AK to perform the PRP search and report.

LIST OF CONTACTS

- Allen County Register of Deeds
- Allen County Appraiser
- Allen County Zoning Commission
- EPA Region 7 CERCLA Records Center
- Iola City Zoning Commission
- Kansas Department of Health and Environment
- Kansas State Historical Society
- Kansas Secretary of State

SITE DESCRIPTION

The Site is located in the southwest quarter of section 25, township 24, range 18 east, north of Highway 54 and east of Kentucky Street in Iola, Allen County, Kansas.



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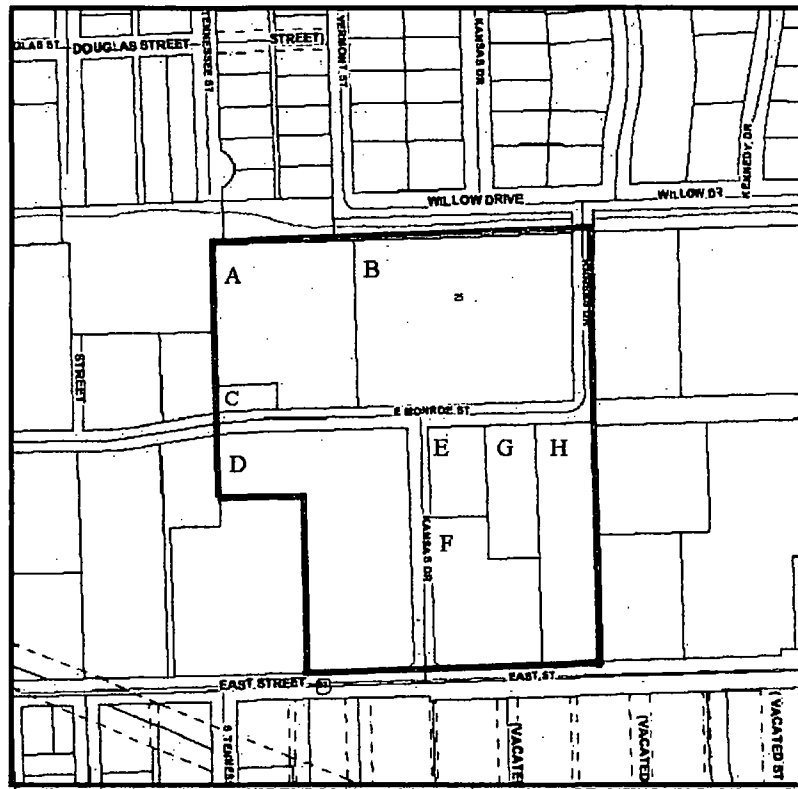


Figure 1: United Zinc Site with Tracts A - H

Title documents indicate that William Lanyon owned the Site from 1901 to 1902. A history of Allen and Woodson Counties, Kansas indicates that William Lanyon operated a sulfuric acid plant during his ownership under the name 'Standard Acid Company' (6). It is unclear if the company operated under lease, however a Sanborn map from 1901 and a mining journal published in 1902 reference Standard Acid's operations of a sulfuric acid works on-site in 1901 (14, 10). According to mining journal reports published in 1902 and 1905, Standard Acid Co. and a company owned by August R. Meyer, called Southwestern Chemical Company, consolidated to form the United Zinc & Chemical Company (10, 5).

United Zinc & Chemical Company owned the Site from 1902 to 1925 (27-476, 85-305¹). The company purchased the Site from William Lanyon in 1902 and operated a zinc smelter on-site from 1902 to 1910 (12, 8, 27-476). By 1910, the Site was no longer operational, but United Zinc retained property ownership (13, 8). In 1925, United Zinc sold the property to individual owners who continued to parcel off the land.

Several companies had ownership of the land from 1940 to the present; a full list is included in Table 5: Corporate Property Owners (for sources see Attachment H). Based on the

¹ This citation format is used for title instrument book and page numbers throughout the report.



evidence collected, there is no indication that these companies engaged in on-site operations that could contribute to the type of waste found on the Site property. Currently, multiple individuals own the Site; Table 2 provides details for each parcel.

SITE TIMELINE

The timeline below provides a parallel view of owner and operator activities on-site during active smelter years. For references, see the 'References' section of the report body. A larger image is included in Attachment G of this report.

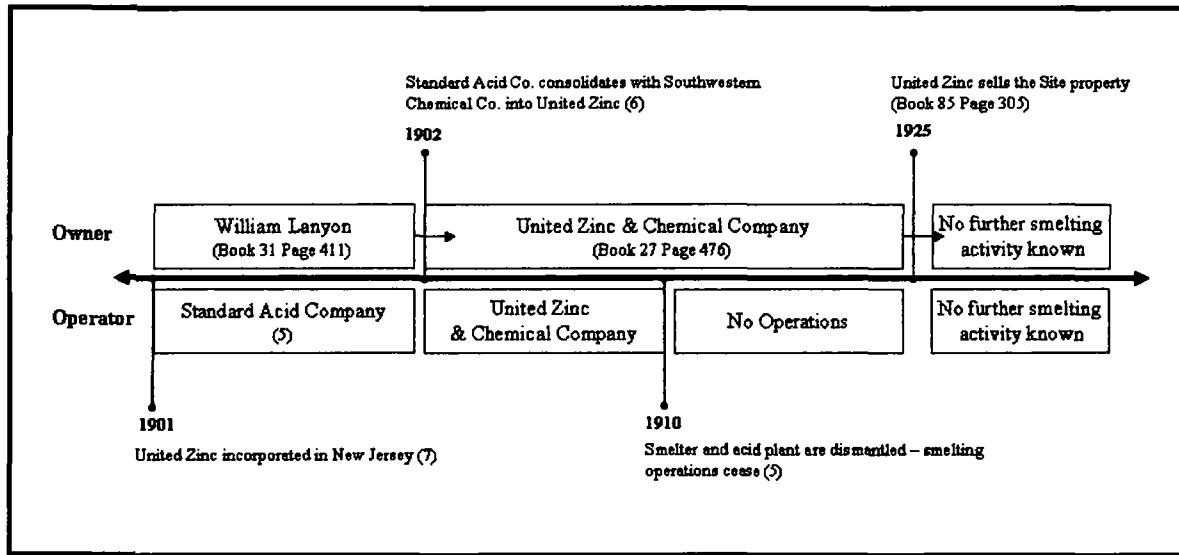


Figure 2: Site Timeline

CONTAMINANTS OF CONCERN

The primary contaminant of concern associated with the Site is lead. On-site smelting activities produced wastes, often in the form of slag, containing high concentrations of heavy metals, such as lead. Often the waste material was reprocessed to extract valuable metal contents, or used as fill for construction. (2)

Kansas Department of Health and Environment (KDHE) investigations revealed elevated levels of lead on the Site and surrounding areas. EPA field screening processes began in 2006 and showed similar results, indicating elevated lead levels on both commercial and residential properties. (16)

II. OWNERSHIP HISTORY

REVIEW OF TITLE DOCUMENTS

The RA and RS were instructed to review all title/deed documents relevant to historic smelting activities on the Site property. The RA and RS used pertinent title/deed documents to determine site boundaries. The research determined smelting activities occurred across an area currently divided into eight parcels of land, referenced as Tracts A - H. 'Attachment B: Chain of Title Tables' contains the legal descriptions of the parcels. The current owner information for the Site parcels is listed in the Table 1 below:

Assessors Parcel No	Tract	Current Owner	Mailing and Property Address
077-25-0-30-19-007.00-0	A	Sherrill, Dave; McFadden, Jack W.	1420 E Monroe 66749
077-25-0-30-19-005.00-00	B	N L & R Properties, LLC	1508 E Monroe 66749
077-25-0-30-19-008.00-00	C	Iola Bank & Trust Co.; Trustee for James P. McFadden under his will	1402 E Monroe 66749
077-25-0-30-19-018.00-0	D	City of Iola; Family Physician's	1408 East St 66749
077-25-0-30-19-018.01-0	E	Benny L Beurskens and Dana A Watson (American Self Storage LLC)	1505 E Monroe 66749
077-25-0-30-19-019.00-0	F	MFA Enterprises Inc.	1520 East St 66749
077-25-0-30-19-004.01-0	G	N L & R Properties, LLC	E Monroe, 66749
077-25-0-30-19-004.00-0	H	Advance Chemical Distribution Inc, (Brenntag Southwest Inc.)	1602 East 66749

Table 2: Current Parcel Information (4)





Figure 3: United Zinc Site with color-coded tracts A-H

CURRENT AND PAST OWNERSHIP HISTORY

'Attachment B: Chain of Title Tables' summarizes the historical and current ownership of the Site in chronological order.

MORTGAGES (DEEDS OF TRUST)

CGS found one mortgage during the ownership period covering Tract E of the Site property:

American Self Storage, LLC, Benny Beurskens and wife, and Dana Watson and wife (Mortgagors) entered into a Mortgage Security Instrument with First National Bank (Mortgagee) on February 15, 2008. The transaction was recorded in book 2008, page 0352 of the Allen County Register of Deeds.

LEASES

CGS found no leases during the ownership period (1901-Current).



AGREEMENTS

CGS found no agreements during the ownership period (1901-Current).

ZONING

According to the City of Iola Zoning Commission, all parcels of the Former United Zinc Site are zoned as 'General Business'.

TITLE TREES

Title Trees can be found for Tracts A-H of the Site in 'Attachment A: Title Trees'.

III. POTENTIALLY RESPONSIBLE PARTIES

A. WILLIAM LANYON

SUMMARY

Historical evidence indicates that during William Lanyon's period of ownership Standard Acid Company operated a sulfuric acid works on-site². Sulfuric acid manufacture is known to have occurred on-site and may be a source of the lead contamination detected in the soil at the Site. Based on available information, Standard Acid Company cannot be legally tied to the Former United Zinc property.

Under CERCLA Section 107(a) (2) PRP liability law, William Lanyon is considered a PRP because he was an owner of the Site property at the time of disposal. William Lanyon was born in Wisconsin on December 16, 1862 and is now deceased (19).

See page 14 for Standard Acid Company's operational information.

OWNERSHIP / LEASE HISTORY

William Lanyon acquired the entire Site property on January 31, 1901 from the Iola Realty Company. The transaction was recorded in book 31, page 411 of the Allen County Register of Deeds. On February 25, 1902, Lanyon sold the property to United Zinc & Chemical Company. The transaction was recorded in book 27, page 476 of the Allen County Register of Deeds.

² For a detailed account and references refer to Standard Acid Company's operational information section (Page 15)



OPERATIONAL INFORMATION

Standard Acid Company

Summary

Sulfuric acid manufacture, which occurred at the Standard Acid Company's works, can produce lead contaminated cinder wastes (15). At this time, under CERCLA Section 107(a) (2), PRP liability cannot be applied to Standard Acid Company because there is no legal evidence to support their on-site operations.

On-site Operations

Standard Acid Company does not appear on any title instruments related to the Site property. The company's only ties to the property are based on historical evidence; for this reason, the company is not included as a PRP.

Duncan L. Wallace, in his "History of Allen and Woodson Counties, Kansas", reports that William Lanyon owned and operated Standard Acid Company prior to its consolidation into United Zinc (6). Likewise, a Kansas State Geological Survey publication from 1970 recounted the history of smelting in southeastern Kansas, stating that William Lanyon managed the Standard Acid Company's smelter at Iola (7).

A 1901 publication detailing the economic geology of Iola directly references the Standard Acid Company's plant operations in Iola. The acid manufacture process is described in detail, referring often to the lead piping used throughout the works. The Iola plant treated forty-five (45) tons of ore a day, yielding fifty (50) tons of acid that was stored in tanks and tank cars on-site. The final sulfuric acid product was intended for use in fertilizers, petroleum refining, alum, soda ash, and blue vitriol. (9)

Date	Activity	Source
1901	Standard Acid Co. works has 3 blocks	11

Table 3: Standard Acid Operational Capacity

The RA and RS searched the Kansas Secretary of State, KSHS, NY Department of State, Missouri Secretary of State, and the New Jersey Secretary of State. No legal records were located. (31)

In 1902, the Standard Acid Company consolidated with Southwestern Chemical Co. to form the United Zinc & Chemical Company (10, 5, 7). Operations at the Site continued as United Zinc & Chemical Company³.

³ See PRP Section A for Corporate History information on United Zinc & Chemical Company.



PROPERTY BOUNDARY/SITE DESCRIPTION:

CGS did not find any reference to the Standard Acid Company on title deeds or leases. Their presence is noted on a Sanborn fire insurance map from 1901:

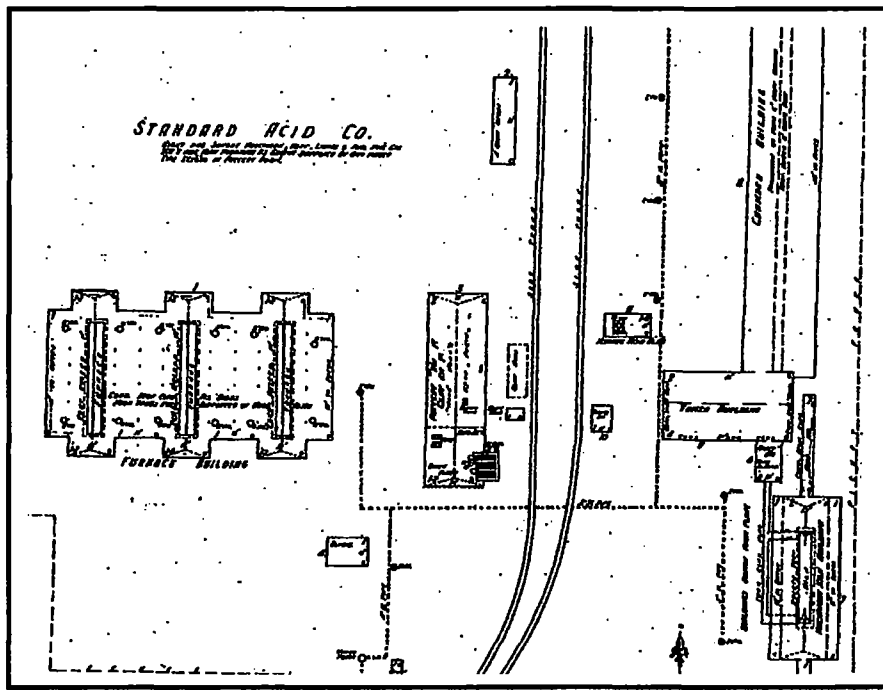


Figure 4: Standard Acid Company Sanborn 1901 (14)

B. UNITED ZINC & CHEMICAL COMPANY

SUMMARY

United Zinc & Chemical Company owned the entire Site property from 1902 to 1925, and operated on-site from 1902 to 1910. Smelting is known to have occurred on-site and may be a source of the lead contamination detected in the soil at the Site. Under CERCLA Section 107(a) (2) liability law, United Zinc & Chemical Company is classified as a PRP, as it was an owner and operator at the time of disposal. The company incorporated in New Jersey in 1902 and, according to documentation provided by the EPA, United Zinc & Chemical Company forfeited their charter for failure to file an annual report on July 15, 1986. No corporate successors were located.

OWNERSHIP / LEASE HISTORY

United Zinc & Chemical Company purchased Tracts A-H of the Site property from William Lanyon on February 25, 1902. The transaction was recorded in deed book 27, page 476 of the Allen County Register of Deeds. The company maintained ownership until 1925, when, under the direction of Alfred R. Meyer, it sold the property to R.A. and R.U. Fry, two



individuals. The transaction took place on April 25, 1925, and was recorded in deed book 85, page 305 of the Allen County Register of Deeds.

In addition to title documents, a court case from 1922 identifies United Zinc & Chemical Company as owners of the Site property:

Court Case '258 US 268 United Zinc & Chemical Company v. Britt et ux.' was decided in the US Supreme Court on March 27, 1922. The Britt's, residents of Iola, sued the United Zinc & Chemical Company after two boys died on the Company's property. Only a brick lined basement remained after the United Zinc & Chemical Company's plant was torn down in 1910. Water had collected within the structure, resembling a clear pool. On July 27, 1916, the boys went into the water, were poisoned, and died. Although clear, the water contained sulfuric acid and zinc sulfate contamination. The courts ruled in favor of the Company, claiming that it could not be held liable for the deaths. (1)

OPERATIONAL INFORMATION

Date	Activity	Source
1902	United Zinc erects a smelter works in connection with the existing sulfuric acid plant	3
1903	Smelter plant becomes operational	3
1907	2 Iola works are listed; 4 furnaces at 2,304 retorts, and 2 furnaces at 480 retorts	17
1909	One Iola plant listed with 6 furnaces at 2,784 retorts	18
1910	Listed as 'plants dismantled or abandoned' - 2,624 retorts	8

Table 4: United Zinc Operational Capacity

CORPORATE HISTORY

Incorporation

United Zinc & Chemical Company was incorporated in Hudson County, New Jersey on November 1, 1901 by Horace S. Gould, John I. Billings, and Kenneth K. McLaren (32). Article 3 of the Articles of Incorporation states that the purpose of the company is to "mine, prepare for market, market and transport the ores of zinc, lead...to smelt all such ores", among other activities (32). Two mining industry reports published in 1902 and 1905 indicate that United Zinc & Chemical Company formed as a consolidation of Southwestern Chemical Co. and Standard Acid Co. (10, 5). A Sanborn fire insurance map from 1901 shows Standard Acid Co.'s works on-site during 1901 (14). August R. Meyer, president of the United Zinc & Chemical Company was the founder of the Southwestern Chemical Co. and initiated the consolidation. (5, 33) He remained in that capacity until his death in December



of 1905, at which time John Greenough took over as president (5, 34). No legal documentation was located regarding the supposed consolidation.

Increase of Capital Stock

A list of company stockholders during 1904 included August R. Meyer and William Lanyon as majority stockholders; Lanyon held the most shares, 2560 preferred and 1765 common (33). William Lanyon's weighty company interest is not out of place; there is historical evidence, documented by Duncan L. Wallace in his "History of Allen and Woodson Counties, Kansas", that William Lanyon operated The Standard Acid Company prior to its consolidation into United Zinc (6). Lanyon sold the Site property, including the acid works, to United Zinc in 1902 (27-476).

Application for Authority

In 1911, United Zinc and Chemical Company applied for authority to do business in Kansas, indicating their principal place of business as Argentine, Wyandotte County, KS (35). The application was approved on February 14, 1912 (35). At this time, according to a Sanborn map from 1912, the Iola works were no longer operational, but United Zinc maintained ownership of the property (13).

Withdraw from Kansas

On June 30, 1914, United Zinc & Chemical Co. petitioned to the Charter Board of Kansas to revoke their certificate of authority, claiming they had not transacted business in Kansas as of January 1, 1913. The petition was approved and the United Zinc & Chemical Company withdrew from Kansas. (36)

Dissolution

According to documentation provided to CGS by the EPA, the Kansas Secretary of State records show that United Zinc & Chemical Company forfeited their charter for failure to file an annual report on July 15, 1986 (38). CGS did not locate any legal documentation of the company's dissolution (37).





Figure 5: United Zinc & Chemical Company Corporate History Chart

PROPERTY BOUNDARY/SITE DESCRIPTION:

See Figure 6 below:

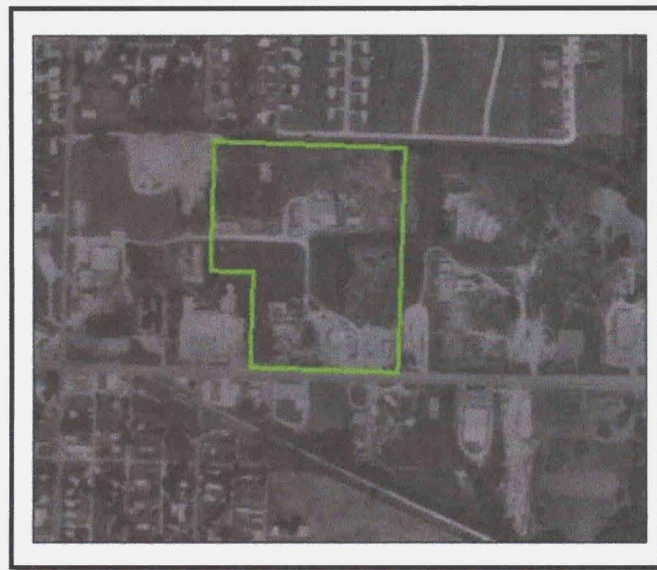


Figure 6: United Zinc & Chemical Company Property (27-476)



CURRENT OWNERS

C. ADVANCE CHEMICAL DISTRIBUTION, INC.

SUMMARY

Advance Chemical Distribution, Inc. acquired Tract H of the Site property in 1991 and is the current owner. The company incorporated in Oklahoma as Kimball Chemical Company, Inc. in 1962, changing its name to Advance Chemical Distribution, Inc. in 1982. In 2001, Advance merged with and into Brenntag Southwest, Inc. and has since been withdrawn from Kansas; Brenntag is now the parent company. As of May 2010 Brenntag Southwest, Inc. is delinquent in Kansas for failure to file an annual report.

Advance Chemical Distribution, Inc.'s registered agent in Kansas is:

Timothy J. Maher
1520 N Barwise
Wichita, KS 67214

Brenntag Southwest, Inc.'s registered agent in Kansas is:

The Corporation Company, Inc
515 South Kansas Ave.
Topeka, KS 66603

According to CERCLA Section 107(a) (1) PRP liability can be applied to Advance Chemical Distribution, Inc., as they are a current owner of the Site property.

OWNERSHIP / LEASE HISTORY

Advance Chemical Distribution, Inc. acquired Tract H of the Site property on July 31, 1991 from Treat-Rite Water Laboratories, Inc. The transaction was recorded in book 183, page 632 of the Allen County Register of Deeds. Advance Chemical is the current owner of Tract H.

OPERATIONAL INFORMATION

CGS found no operational information

CORPORATE HISTORY

Incorporation

On September 18, 1962, Kimball Chemical Company, Inc. incorporated in Oklahoma. Oklahoma Secretary of State signed and filed the Articles of Incorporation on September 20, 1962. (23)

The purpose of the business is listed as follows:

To establish, carry on, and develop the business of producing, manufacturing, utilizing; and trading in any and all kinds of chemicals, organic and inorganic, crude



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and refined, and products of similar character and any and all materials, products, and articles directly or indirectly related thereto in any way... (23)

The Directors listed are, Vernon N. Kidd, David L. Miller, and M.M. McDougal (23).

Amended Articles of Incorporation: Name Change

Amended Articles of Incorporation were filed with the Oklahoma Secretary of State on December 13, 1982. According to the Amended Articles, the name of the corporation is Advance Chemical Distribution, Inc. and was formerly Kimball Chemical Company, Inc. L. Dean Cox, Betty P. Cox, and Mitchell D. O'Donnell signed the Amended Articles on November 18, 1982. (20)

Mergers

A Certificate of Merger or Consolidation was signed on June 25, 2001, merging Advance Chemical Distribution, Inc., and Brenntag Southwest, Inc., a Texas corporation. The resulting corporation was Brenntag Southwest, Inc. The merger became effective on July 9, 2001. (21)

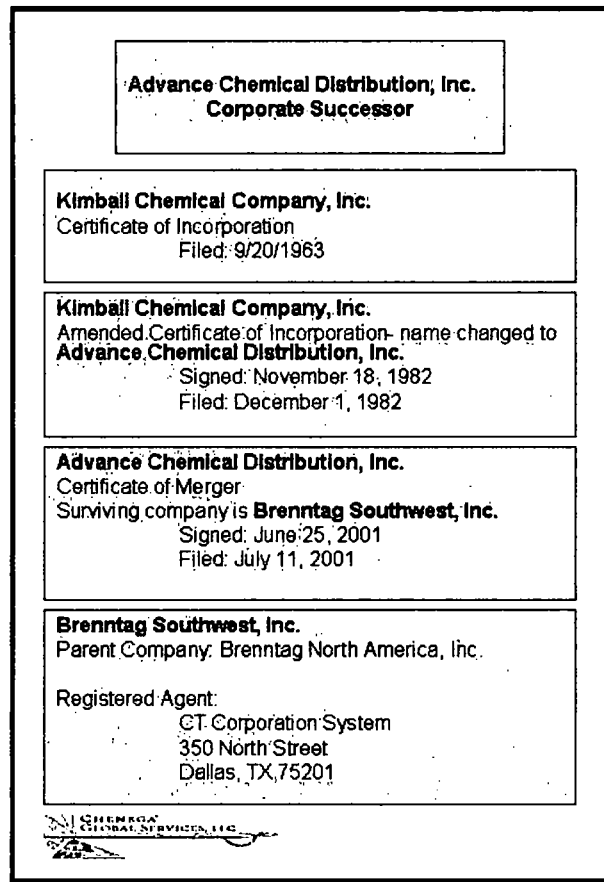


Figure 7: Advance Chemical Distribution, Inc. Corporate History Chart



PROPERTY BOUNDARY/SITE DESCRIPTION:

Advance Chemical Distribution, Inc. is the current owner of Tract H of the Site property (183-632). For a parcel map, see Figure 1 or Figure 3.

D. AMERICAN SELF STORAGE, LLC**SUMMARY**

American Self Storage, LLC was incorporated in 2006 by Dana Watson and Benny Beurskens. In 2008, Watson and Beurskens sold Tract E of the Site property into their company name, American Self Storage, LLC; as of May 2010 the company is active and in good standing in Kansas.

According to CERCLA Section 107(a) (1) PRP liability can be applied to American Self Storage, LLC, as they are a current owner of the Site property.

OWNERSHIP / LEASE HISTORY

American Self Storage, LLC acquired Tract E of the Site property from Benny L. Beurskens and wife, and Dana Watson and wife on April 25, 2008. The Warranty Deed was recorded in book 2008, page 0867 of the Allen County Register of Deeds. The company is the current owner of Tract E.

OPERATIONAL INFORMATION

CGS found no operational information.

CORPORATE HISTORY

American Self Storage, LLC was incorporated in Kansas on October 05, 2006. Dana Watson and Benny Beurskens signed as the company's organizers. (22)

The Kansas Secretary of State lists the registered agent as:

American Self-Storage, LLC
1321 Oakhurst Place
Independence, KS 67301

PROPERTY BOUNDARY/SITE DESCRIPTION:

American Self Storage, LLC is the current owner of Tract E of the Site property (2008-0867). For a parcel map, see Figure 1 or Figure 2.



E. IOLA BANK AND TRUST CO.

SUMMARY

Iola Bank and Trust Co., trustee for James P. McFadden under his will, is the current owner of Tract C of the Site property. According to CERCLA Section 107(a) (1), PRP liability can be applied to Iola Bank and Trust Co., as they are a current owner of the Site property.

Iola Bank and Trust Co. is currently inactive in Kansas due to its merger into Teambank, National Association in 2001. Teambank was subsequently acquired by Great Southern Bankcorp, Inc.; Great Southern Bank is currently active in Kansas.

OWNERSHIP / LEASE HISTORY

In June of 1995, Iola Bank and Trust Co., acting as trustee for James P. McFadden under his will, transferred Tract A from McFadden's name to Jack W. McFadden, heir of James P. McFadden (190-394).

In March of 1977, Darrell R Turner and his wife sold Tract C of the Site property to James P. McFadden and his wife (161-488). Currently, Iola Bank and Trust Co. is listed as the owner of Tract C, acting as trustee for James P. McFadden under his will.

OPERATIONAL INFORMATION

CGS found no operational information for Iola Bank and Trust Co.

CORPORATE HISTORY

Iola Bank and Trust Co. incorporated in Kansas on April 1, 1903 as Iola State Bank. The Kansas Secretary of State lists the company's current status as "converted to national/federal". According to financial search data, the company was acquired by Teambank, National Association, who was then acquired by Great Southern Bancorp, Inc. of Springfield, Missouri (for references see Iola Bank and Trust Co.'s PRP Profile Sheet).

Great Southern Bank is currently active and maintains an office in Iola at 119 East Madison St., Iola, KS 66749. The registered agent in Kansas is listed with the Kansas Secretary of State as:

Henry Heimsoth
8717 W. 110th Street, Suite 500
Overland Park, KS 66210

PROPERTY BOUNDARY/SITE DESCRIPTION:

For a parcel map see Figure 1.



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F. IOLA, CITY OF

SUMMARY

The City of Iola has owned Tract D of the Site property since 2008. Currently, Family Physicians operates an on-site medical practice. No lease was located. According to CERCLA Section 107(a) (1), PRP liability can be applied to The City of Iola, as it is a current owner of the Site property.

OWNERSHIP / LEASE HISTORY

The City of Iola, Kansas acquired Tract D of the Site property from Iola Medical Developers on December 12, 2008. The transaction was recorded in book 2008, page 2542 of the Allen County Register of Deeds.

OPERATIONAL INFORMATION

The city's on-site operations are unknown, but the Allen County Assessor's tax listings indicate "Family Physicians" as the taxpayer at the property address. A general internet search of the property address indicates that Family Physicians operates an on-site medical practice. The Kansas Secretary of State has "The Family Physicians, P.A." a professional association, listed with a mailing address matching the property address at 1408 East Street, Iola, KS 66749. The resident agent is Brian D. Wolfe, 201 West Street, Iola, KS 66749.

CORPORATE HISTORY

A Dun & Bradstreet Business Information Report dated April 20, 2010 states that the City of Iola incorporated in Kansas in 1870 and is an active non-profit corporation. The directors are as follows:

Bill Maness, Mayor
Judy Brigham, Administrator
William Shirley, Commissioner
Craig Abbott, Commissioner

PROPERTY BOUNDARY/SITE DESCRIPTION:

The City of Iola is the current owner of Tract D of the Site property (2008-2542). For a parcel map, see Figure 1 or Figure 3.

G. MFA ENTERPRISES, INC.

SUMMARY

MFA Enterprises, Inc. is the current owner of Tract F of the Site property. The company was incorporated in 2001 and is a wholly owned subsidiary of MFA Incorporated. According to CERCLA Section 107(a) (1) PRP liability can be applied to MFA Enterprises, Inc., as it is a current owner of the Site property.



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The Missouri Secretary of State lists the registered agent for MFA Enterprises, Inc. as:

J. Brian Griffith,
201 Ray Young Drive
Columbia, MO 65201-3599

OWNERSHIP / LEASE HISTORY

MFA Enterprises, Inc. acquired Tract F of the Site property on February 1, 2001 from Agro Distribution, LLC. The transaction was recorded in book A1, page 370 of the Allen County Register of Deeds. MFA Enterprises, Inc. is the current owner of Tract F.

Mortgages (Deeds of Trust)

On February 26, 2010, MFA Enterprises, Inc (mortgagor) entered into a mortgage deed of trust with MFA Incorporated (mortgagee), of which it is a subsidiary. The mortgage was recorded in book A2, page 130 of the Allen County Register of Deeds.

OPERATIONAL INFORMATION

CGS found no operational information.

CORPORATE HISTORY

Incorporation

On August 9, 1995, MFA of Oklahoma, Inc. signed their Articles of Incorporation. Three incorporators are listed as B.L. Frew, David Jobe, and Joe Powell. The purpose of the corporation is:

To conduct livestock feed mill operations for the manufacture and sale of livestock feeds and to do and perform all acts necessary and incidental thereto; . . . and to engage in any other lawful act or activity for which corporations may be organized under The General and Business Corporation Law of Missouri.

B.L. Frew, David Jobe, and Joe Powell, signed by and filed The Articles with the Missouri Secretary of State on August 10, 1995. (24)

Amendment to the Articles of Incorporation: Name Change

On January 5, 2001, MFA of Oklahoma, Inc. amended its Articles of Incorporation, changing the corporate name to MFA Enterprises, Inc. The amendment was filed with the Missouri Secretary of State on January 10, 2001. (25)

Foreign Corporation Application

On January 11, 2001, MFA Enterprises, Inc. signed a Foreign Corporation Application indicating intent to commence business in Kansas on February 1, 2001. The application filed with the Kansas Secretary of State on January 26, 2001 lists the company's total net worth at \$713,488.86. (26)



Anchorage, AK

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Billy G. Streeter, Vice President, and Brian Griffith, Secretary signed the Application. Other officers listed who did not sign the application include Don Copenhaver, President, and Allen Floyd, Treasurer. (26)

Mergers

MFA Enterprises, Inc. filed Articles of Merger with the Missouri Secretary of State on February 6, 2001. The articles merged Morris Farm Center, Inc. into MFA Enterprises, Inc., the surviving corporation. On January 25, 2001, Don Copenhaver for MFA Enterprises, Inc. and Don Copenhaver, President, for Morris Farm Center, Inc. signed the Articles of Merger (27).

MFA Enterprises, Inc. filed Articles of Merger with the Missouri Secretary of State on July 5, 2005. These articles merged West Central AGRIServices, L.L.C. into MFA Enterprises, Inc., the surviving corporation. Don Copenhaver, President, signed the Articles for MFA Enterprises, Inc. and Billy G. Streeter, listed as Sr. Vice-President of MFA, signed for West Central AGRIServices, L.L.C. (28)

Annual Report

A 2009 Annual Registration Report was filed with the Missouri Secretary of State on January 5, 2010. The report lists officers as Billy Streeter, President; J. Brian Griffith, Vice President; Janice Schuerman, Secretary; and Allen Floyd, Treasurer. Board of Directors is listed as J. Brian Griffith, Bill Streeter, and Allen Floyd. (29)



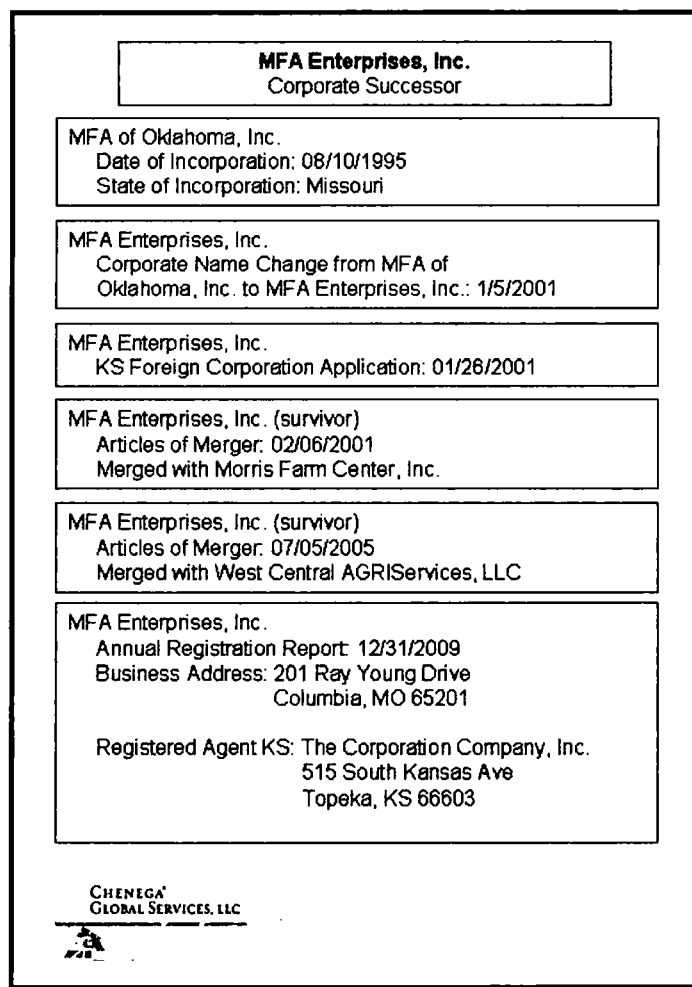


Figure 8: MFA Enterprises, Inc. Corporate History Chart

PROPERTY BOUNDARY/SITE DESCRIPTION:

MFA Enterprises, Inc. is the current owner of Tract F of the Site property (A1-370).
For a parcel map, see Figure 1 or Figure 3.

H. NL AND R PROPERTIES, LLC**SUMMARY**

NL and R Properties, LLC is the current owner of Tracts B and G of the Site property. No corporate records were located. According to CERCLA Section 107(a) (1) PRP liability can be applied to NL and R Properties, LLC, as it is a current owner of the Site property.



OWNERSHIP / LEASE HISTORY

NL and R Properties, LLC acquired Tracts B and G on August 3, 2006 from Les Dietrich aka John L. Dietrich and Rita M. Dietrich in 2 separate transactions recorded in book A76, pages 540 and 541 of the Allen County Register of Deeds.

NL and R Properties, LLC currently owns Tracts B and G of the Site property.

OPERATIONAL INFORMATION

CGS found no operational information.

CORPORATE HISTORY

The Kansas Secretary of State found no record of NL and R Properties, LLC (30). No Dun & Bradstreet Business Information Report was located.

PROPERTY BOUNDARY/SITE DESCRIPTION:

N L and R Properties, LLC is the current owner of Tract B and Tract G of the Site property (A76-541; A76-540). For a parcel map, see Figure 1 or Figure 3.

I. DAVE SHERRILL AND JACK W. MCFADDEN**SUMMARY**

James P. McFadden and Dave L. Sherrill acquired Tract A of the Site property in 1973. Dave Sherrill has maintained ownership of his percentage to the present. Iola Bank and Trust Co., trustee for James P. McFadden under his will, transferred the remaining portion to Jack W. McFadden, heir of James P. McFadden. Jack W. McFadden inherited his share of the title to Tract A.

According to CERCLA Section 107(a)(1), both Dave L. Sherrill and Jack W. McFadden are considered PRPs, as they are current owners of the Site property.

OWNERSHIP / LEASE HISTORY

On December 14, 1973, Belvah McFadden sold Tract A of the Site property to James P. McFadden and Dave L. Sherrill (156-306). In June of 1995, Iola Bank and Trust Co., trustee for James P. McFadden under his will, transferred one half of the interest in title to Jack W. McFadden, heir to James P. McFadden (190-394). In 2005, Jacqueline McFadden quit claimed the interest in title to Jack W. McFadden (A68-370).

Dave Sherrill maintained his percentage of interest in title to the present; Dave L. Sherrill and Jack W. McFadden are the current owners of Tract A of the Site property.

OPERATIONAL INFORMATION

CGS found no operational information.



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CORPORATE HISTORY

N/A

PROPERTY BOUNDARY/SITE DESCRIPTION:

For a parcel map see Figure 1.

ADDITIONAL CORPORATE PROPERTY OWNERS

During the collection and review of Site title instruments, CGS found several corporations that owned Site property. EPA asked CGS to account for these businesses and their on-site operations. Based on the information gathered, the corporations listed cannot be classified as Potentially Responsible Parties. Business information available for these companies is provided in Table 4 of the report body and is duplicated in Attachment H: Corporate Property Owners

Company	Dates of Ownership	Tract	Nature of business / Notes	Source (Attachment H)
Acme Asphalt & Gas, Inc.	5/9/1940 – 7/31/1945	G, H	A Kansas corporation; operations unknown	
Agro Distribution, LLC	6/30/1999 – 2/1/2001	F	Wholesale Farm Suppliers	1
Farmers Friend & Associates	8/14/1997 – 8/3/2006	G, B	No information found	
Iola Industries, Inc.	5/8/1990 – 2/1/1994	B	Industrial development corporation	2
Iola Medical Developers, LLC	11/15/2006 – 12/12/2008	D	Medical building owner	3
Iola Oil & Gas Service, Inc.	9/29/1939 – 5/9/1940	G, H	A Kansas corporation; operations unknown	
Line-X Company	6/30/1950 – 8/6/1970	G, H	Protective coating spray products	8



Company	Dates of Ownership	Tract	Nature of business / Notes	Source (Attachment H)
M&M Packing Company, Inc.	4/6/1940 – 6/30/1944	B	Meat packaging and slaughterhouse	101-397; 6
Iola Land & Cattle Company, Inc. (previously M&M Co Inc)	6/4/1947 – 2/1/1958	B	M&M Receives the property, then Iola Land and Cattle Company, Inc. appears on the title deed. Edward P Marquis signs as president.	129-590; 171-56
	10/1/1958 – 4/13/1983	B	Ed. P. Marquis was president of M&M Company, Inc. of Iola, formed in 1983	5, 4
Terra International, Inc.	10/30/1995 – 6/30/1999	D, F	Production of nitrogen products for agricultural, industrial, and environmental markets – facility was most likely a distribution/retail center.	9
The Iola Realty Company	3/3/1897 – 1/31/1901	All	No information found	
Treat-Rite Water Laboratories, Inc.	12/29/1971 – 7/31/1991	G, H	Water treatment chemicals and supplies	7

Table 5: Corporate Property Owners (for sources see Attachment H)



CONCLUSIONS

According to Chenega Global Services research, the following entities are considered Potentially Responsible Parties pursuant to CERCLA Section 107 (a) for the following reasons:

Sulfuric Acid Manufacture

William Lanyon's inclusion as a PRP is based on evidence that, during his period of Site ownership, Standard Acid Company operated a sulfuric acid works on-site. Sulfuric acid manufacture is known to have occurred on-site and may be a source of the lead contamination detected in the soil at the Site. Based on available information, Standard Acid Company cannot be legally tied to the Former United Zinc property.

Under CERCLA Section 107(a) (2) PRP liability law, William Lanyon is considered a PRP because he was an owner of the Site property at the time of disposal. William Lanyon was born in Wisconsin on December 16, 1862 and is now deceased.

Smelting Operations

United Zinc & Chemical Company, a New Jersey corporation, owned the entirety of the Former United Zinc Site property from 1902 to 1925. The company operated a smelting facility on-site from 1902 to 1910.

Smelting is known to have occurred on-site and may be a source of the lead contamination detected in the soil at the Site. Under CERCLA Section 107(a) (2) liability law, United Zinc & Chemical Company is classified as a PRP, as it was an owner and operator at the time of disposal. The company incorporated in New Jersey in 1902 and, according to documentation provided by the EPA, United Zinc & Chemical Company forfeited their charter for failure to file an annual report on July 15, 1986. No corporate successors were located.

Current Owners

According to CERCLA SECTION 107(a) (1) PRP liability can be applied to the following entities, as they are current owners of the Site property:

Advance Chemical Distribution, Inc. is a for-profit corporation organized in Oklahoma. The company is a current owner of approximately 1.8 acres of the Former United Zinc Site property. On June 25, 2001, Advance Chemical Distribution, Inc. merged with and into Brenntag Southwest, Inc., a Texas corporation. As of April 20, 2010, Advance Chemical Distribution, Inc. is inactive in Kansas.

American Self Storage, LLC, a Kansas limited liability company incorporated by Benny Beurskens and Dana Watson, is a current owner of a parcel of land located on the Former United Zinc Site property. As of April 20, 2010, the company is active in Kansas.

Iola Bank and Trust Co., trustee for James P. McFadden under his will, is the current owner of Tract C of the Site property. Iola Bank and Trust Co. is currently inactive in Kansas due to



its merger into Teambank, National Association in 2001. Teambank was subsequently acquired by Great Southern Bankcorp, Inc.; Great Southern Bank is currently active in Kansas.

The City of Iola, Kansas is a current owner of approximately 3.7 acres of the Former United Zinc Site property. As of April 20, 2010, the municipality is an active Kansas corporation.

MFA Enterprises, Inc., a Missouri corporation, is a current owner of approximately 1.8 acres of the Former United Zinc Site property. The company is a wholly owned subsidiary of MFA Incorporated. As of April 20, 2010, MFA Enterprises, Inc. is active and in good standing with the Kansas and Missouri Secretary of State.

NL and R Properties, LLC is a current owner of two parcels of land located on the Former United Zinc Site property, Tracts B and G. No corporate records were located.

Dave L. Sherrill and Jack W. McFadden are current owners of Tract A of the Site property. James P. McFadden and Dave L. Sherrill acquired Tract A of the Site property in 1973. Dave Sherrill has maintained ownership of his percentage to the present. Iola Bank and Trust Co., trustee for James P. McFadden under his will, transferred the remaining portion to Jack W. McFadden, heir of James P. McFadden. Jack W. McFadden inherited his share of the title to Tract A.



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ATTACHMENTS

A: Title Trees

B: Chain of Title Tables

C: Title Instruments

D: Maps

E: Corporate Documents (References 20-38)

F: Historical Documents (References 1-19)

G: Site Timeline

H: Corporate Property Owners

I: Potentially Responsible Party Profile Sheets

J: Dun & Bradstreet Business Information Reports



Anchorage, AK

250



726 E. 9th Ave

Anchorage, AK 90501

East Iola Smelter Site Iola, Allen County, KS **Potentially Responsible Party (PRP) Report**

PREPARED FOR:

U.S. ENVIRONMENTAL AGENCY REGION 7, SUPERFUND DIVISION

901 N. 5th STREET, KANSAS CITY, KANSAS 66101

FINAL August 2010

Task Order Number:

0001

Date Submitted:

August 2010

Contract Number:

A7R6RP00

EPA Work Assignment Manager:

Michelle Quick

Telephone Number:

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On-Site Manager:

Gabrielle Haenn

Telephone Number:

913-551-7154

Project Manager:

Eric D. Bailey

Telephone Number:

856-217-7871



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Figure 10: East Iola Site Dump No. 4.30

Figure 11: B & B Movie Theatres, L.L.C. Corporate Successor32



POTENTIALLY RESPONSIBLE PARTY SUMMARY

Chenega Global Services, LLC (CGS) received Task Order 0001, Project Code A7R6RP00, from the U.S. Environmental Protection Agency (EPA) Region 7 office, under the Superfund Contract Number EP-S7-09-08. The purpose of this task order is to provide EPA's Superfund Division with a vehicle through which to perform expedited site-specific Potentially Responsible Party (PRP) searches in support of the EPA Task Order/Project Officer (TOPO) search activities.

This Potentially Responsible Party Report for the East Iola Smelter Site (the "Site") summarizes the research conducted by the Records Specialists (RS) and Regulatory Analysts (RA) to determine the Site history. The following Potentially Responsible Party Search Report provides for the ownership/lease history, operational information, Site boundaries, and corporate successors of PRPs for the East Iola Smelter Site in Allen County, Kansas.

CGS research revealed the following PRPs pursuant to CERCLA Section 107(a) liability law:

PRP	Viability	Reason	CERCLA Liability Law
Iola Realty Company	No - expired 1917	Owner: 1897-1900	107(a)(2)
Iola Portland Cement Company	No - expired 1949	Owner: 1900-1915	107(a)(2)
George E. Nicholson	No - deceased	Owner: 1901-1902	107(a)(2)
Prime Western Spelter Company	No - dissolved 1924	Owner/Operator: 1902-1925	107(a)(2)
J.B. Kirk Gas & Smelting Company	No - dissolved 1995	Owner/Operator: 1920-1925 Arranger: 1953-1958	107(a)(2) 107(a)(3)
J.B. Kirk, individual	No - deceased	Arranger: 1953-1958	107(a)(3)
Cherryvale Zinc Company	No - dissolved 1977	Transporter: 1953-1957	107(a)(4)
B & B Movie Theatres, L.L.C.	Yes	Current Owner	107(a)(1)
Macha Enterprises, Inc.	Yes	Current Owner	107(a)(1)
Lawrence L. Macha	Yes - individual	Current Owner	107(a)(1)

Table 1: Potentially Responsible Parties

I. Introduction

PROJECT BACKGROUND

Chenega Global Services, LLC (CGS) received Task Order 0001, Project Code A7R6RP00, from the U.S. Environmental Protection Agency (EPA) Region 7 office, under the Superfund Contract Number EP-S7-09-08. The purpose of this task order is to provide EPA's Superfund Division with a vehicle through which to perform expedited site-specific potentially responsible party (PRP) searches in support of the EPA Task Order/Project Officer (TOPO) search activities.

This Potentially Responsible Party report for the East Iola Smelter Site (the "Site") summarizes the research conducted by the Records Specialists (RS) and Regulatory Analysts (RA) to determine the Site history.

PROJECT APPROACH

The U.S. Environmental Protection Agency, Region 7, Superfund Division, Kansas City, Kansas contracted Chenega Global Services, Anchorage, Alaska to perform the PRP search and report.

LIST OF CONTACTS

- Allen County Register of Deeds
- Allen County Appraiser
- EPA Region 7 CERCLA Records Center
- Iola, Kansas - City Zoning Commission
- Kansas Department of Health and Environment
- Kansas State Historical Society
- Kansas Secretary of State

SITE DESCRIPTION

The Site is located on the eastern border of the City of Iola, within the city limits. It sits to the East of the central business district along the north side of US Highway 54. The Site is in the southeast quarter (SE/4), of the southwest quarter (SW/4), of Section 25, Township 24 South, Range 18 East, of Allen County, Kansas.



Anchorage, AK

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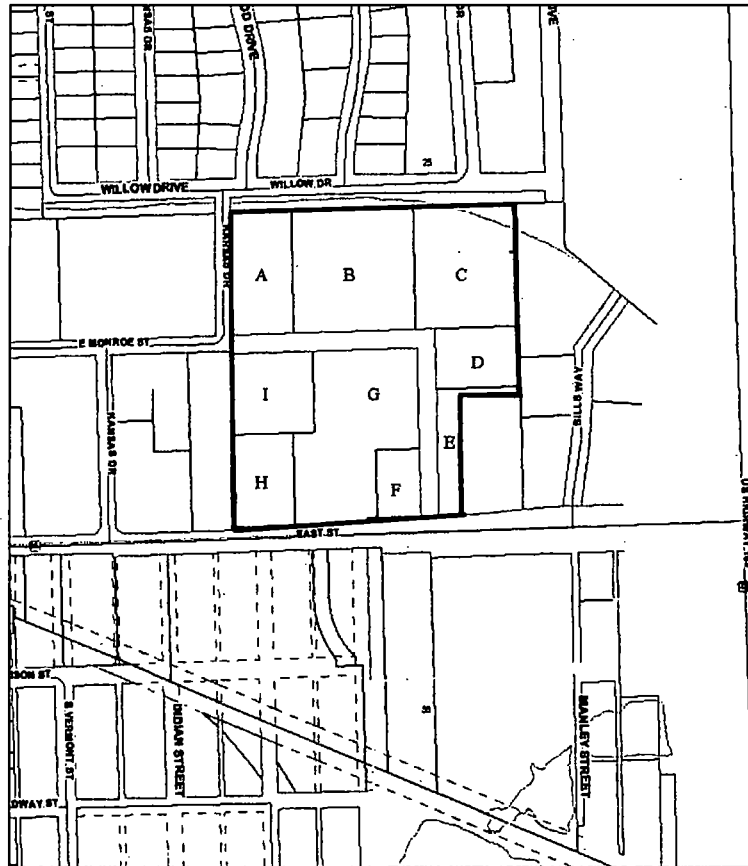


Figure 1: East Iola Site Map with Tracts A - I

The Iola Realty Company purchased the entire southwest quarter of Section 25, Township 24, Range 18 East from Henry P. Merriam and his wife in 1897 (19-318¹). In 1898, during the realty company's ownership, George E. Nicholson built the first smelter on the property, beginning operations that same year (2). In May of 1900, the land sold to the Iola Portland Cement Company of Kansas (26-514). In August of 1901, George E. Nicholson purchased the land on which he had already commenced smelting operations (12, 27-191).

In January of 1902, Nicholson sold the Site and its smelting apparatuses to Prime Western Smelter Company (8, 33-626). A New York Times article from 1902 claims that New Jersey Zinc Company had a hand in this sale, and a mineral industry publication from the same year concurs (10, 8). No legal documentation confirming New Jersey Zinc Company's involvement was located. Prime Western owned the property from 1902 to 1920, when its works went idle and the company sold to J.B. Kirk Gas & Smelting Company (6, 70-455).

J.B. Kirk Gas & Smelting Company operated the Site until 1925, when all smelter operations ceased (9). In 1934, J.B. Kirk Gas & Smelting Company sold a small portion of the property

¹ This citation format is used for title instrument book and page numbers throughout the report.



726 E. 9th Ave

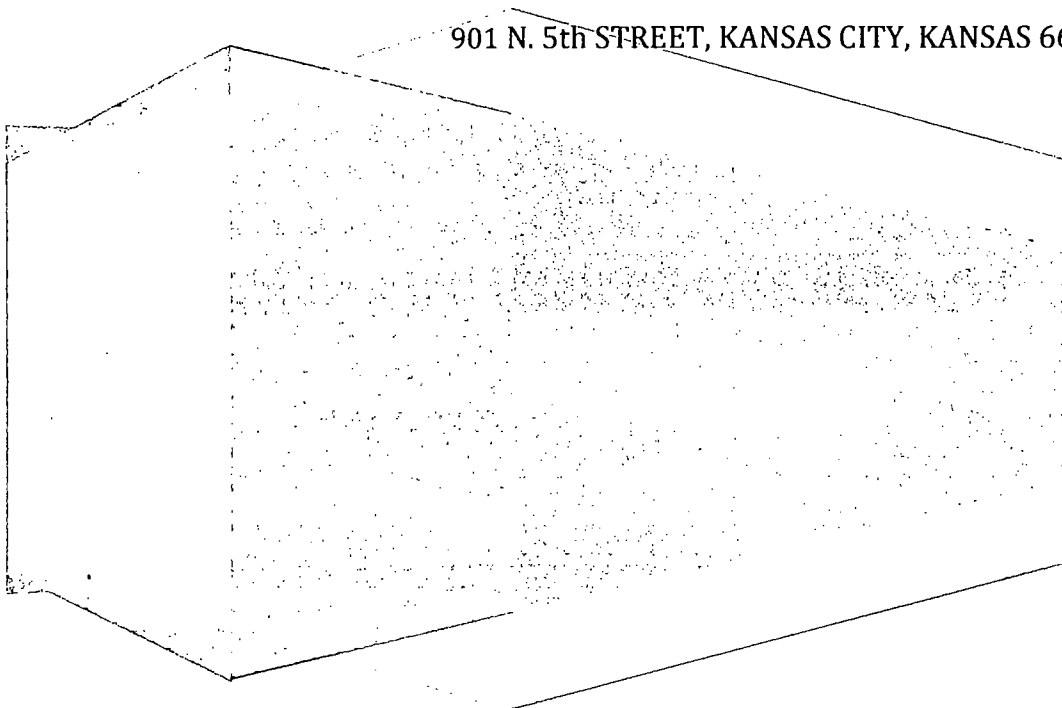
Anchorage, AK 90501

East Iola Smelter Site Iola, Allen County, KS Potentially Responsible Party (PRP) Report

PREPARED FOR:

U.S. ENVIRONMENTAL AGENCY REGION 7, SUPERFUND DIVISION

901 N. 5th STREET, KANSAS CITY, KANSAS 66101



FINAL August 2010

Task Order Number:

0001

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POTENTIALLY RESPONSIBLE PARTY SUMMARY

Chenega Global Services, LLC (CGS) received Task Order 0001, Project Code A7R6RP00, from the U.S. Environmental Protection Agency (EPA) Region 7 office, under the Superfund Contract Number EP-S7-09-08. The purpose of this task order is to provide EPA's Superfund Division with a vehicle through which to perform expedited site-specific Potentially Responsible Party (PRP) searches in support of the EPA Task Order/Project Officer (TOPO) search activities.

This Potentially Responsible Party Report for the East Iola Smelter Site (the "Site") summarizes the research conducted by the Records Specialists (RS) and Regulatory Analysts (RA) to determine the Site history. The following Potentially Responsible Party Search Report provides for the ownership/lease history, operational information, Site boundaries, and corporate successors of PRPs for the East Iola Smelter Site in Allen County, Kansas.

CGS research revealed the following PRPs pursuant to CERCLA Section 107(a) liability law:

PRP	Viability	Reason	CERCLA Liability Law
Iola Realty Company	No – expired 1917	Owner: 1897-1900	107(a)(2)
Iola Portland Cement Company	No – expired 1949	Owner: 1900-1915	107(a)(2)
George E. Nicholson	No - deceased	Owner: 1901-1902	107(a)(2)
Prime Western Spelter Company	No – dissolved 1924	Owner/Operator: 1902-1925	107(a)(2)
J.B. Kirk Gas & Smelting Company	No – dissolved 1995	Owner/Operator: 1920-1925 Arranger: 1953-1958	107(a)(2) 107(a)(3)
J.B. Kirk, individual	No – deceased	Arranger: 1953-1958	107(a)(3)
Cherryvale Zinc Company	No – dissolved 1977	Transporter: 1953-1957	107(a)(4)
B & B Movie Theatres, L.L.C.	Yes	Current Owner	107(a)(1)
Macha Enterprises, Inc.	Yes	Current Owner	107(a)(1)
Lawrence L. Macha	Yes - individual	Current Owner	107(a)(1)

Table 1: Potentially Responsible Parties

I. Introduction

PROJECT BACKGROUND

Chenega Global Services, LLC (CGS) received Task Order 0001, Project Code A7R6RP00, from the U.S. Environmental Protection Agency (EPA) Region 7 office, under the Superfund Contract Number EP-S7-09-08. The purpose of this task order is to provide EPA's Superfund Division with a vehicle through which to perform expedited site-specific potentially responsible party (PRP) searches in support of the EPA Task Order/Project Officer (TOPO) search activities.

This Potentially Responsible Party report for the East Iola Smelter Site (the "Site") summarizes the research conducted by the Records Specialists (RS) and Regulatory Analysts (RA) to determine the Site history.

PROJECT APPROACH

The U.S. Environmental Protection Agency, Region 7, Superfund Division, Kansas City, Kansas contracted Chenega Global Services, Anchorage, Alaska to perform the PRP search and report.

LIST OF CONTACTS

- Allen County Register of Deeds
- Allen County Appraiser
- EPA Region 7 CERCLA Records Center
- Iola, Kansas - City Zoning Commission
- Kansas Department of Health and Environment
- Kansas State Historical Society
- Kansas Secretary of State

SITE DESCRIPTION

The Site is located on the eastern border of the City of Iola, within the city limits. It sits to the East of the central business district along the north side of US Highway 54. The Site is in the southeast quarter (SE/4), of the southwest quarter (SW/4), of Section 25, Township 24 South, Range 18 East, of Allen County, Kansas.



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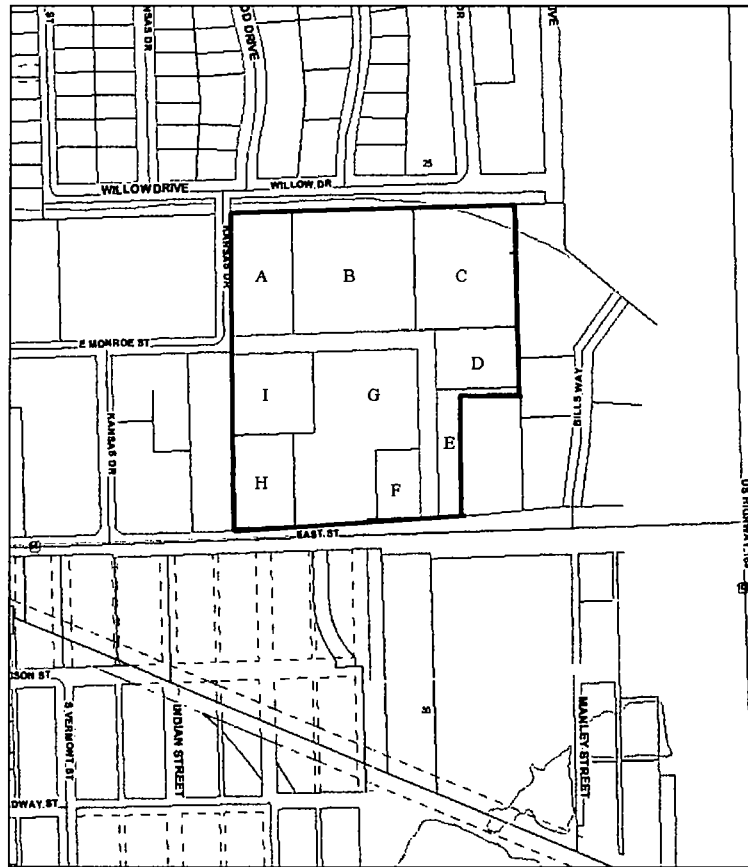


Figure 1: East Iola Site Map with Tracts A - I

The Iola Realty Company purchased the entire southwest quarter of Section 25, Township 24, Range 18 East from Henry P. Merriam and his wife in 1897 (19-318¹). In 1898, during the realty company's ownership, George E. Nicholson built the first smelter on the property, beginning operations that same year (2). In May of 1900, the land sold to the Iola Portland Cement Company of Kansas (26-514). In August of 1901, George E. Nicholson purchased the land on which he had already commenced smelting operations (12, 27-191).

In January of 1902, Nicholson sold the Site and its smelting apparatuses to Prime Western Spelter Company (8, 33-626). A New York Times article from 1902 claims that New Jersey Zinc Company had a hand in this sale, and a mineral industry publication from the same year concurs (10, 8). No legal documentation confirming New Jersey Zinc Company's involvement was located. Prime Western owned the property from 1902 to 1920, when its works went idle and the company sold to J.B. Kirk Gas & Smelting Company (6, 70-455).

J.B. Kirk Gas & Smelting Company operated the Site until 1925, when all smelter operations ceased (9). In 1934, J.B. Kirk Gas & Smelting Company sold a small portion of the property

¹ This citation format is used for title instrument book and page numbers throughout the report.



to the City of Iola, maintaining ownership of the remaining property until late 1958 (98-297). During the latter years of ownership, J.B. Kirk Gas & Smelting Company leased a portion of the Site property to J.B. Kirk, president of the company (M52-105). From 1953 to 1956, J.B. Kirk, as lessee of the Site, entered into an agreement with Cherryvale Zinc Company for quarrying and removal of an on-site cinder residue dump that resulted from past smelting operations (M52-110, M55-143).

J.B. Kirk Gas & Smelting Company sold the remaining Site property to Iola Industries, Inc. in April of 1959 (133-402). Following this sale, no further smelting activity occurred on the Site property.

From 1959 to the present, the Site property has transferred between multiple individuals. A full list of owners from 1897 to the present is included in 'Attachment B: Chain of Title Tables'.

Several companies had ownership of the land from 1940 to the present; a full list is included in Table 5 and duplicated in Attachment H. Based on the evidence collected, there is no indication that these companies engaged in on-site operations that could contribute to the type of waste found on the Site property.

Currently, the Site is divided into nine parcels. Lawrence Macha owns six parcels, Macha Enterprises, Inc. owns two, and B&B Movie Theatres, L.L.C. owns one. Details on the current parcels are included in Table 2.

SITE TIMELINES

The timelines below provide a parallel view of owner and operator activities on-site during active smelter years. For larger images, see Attachment G: Site Timeline.

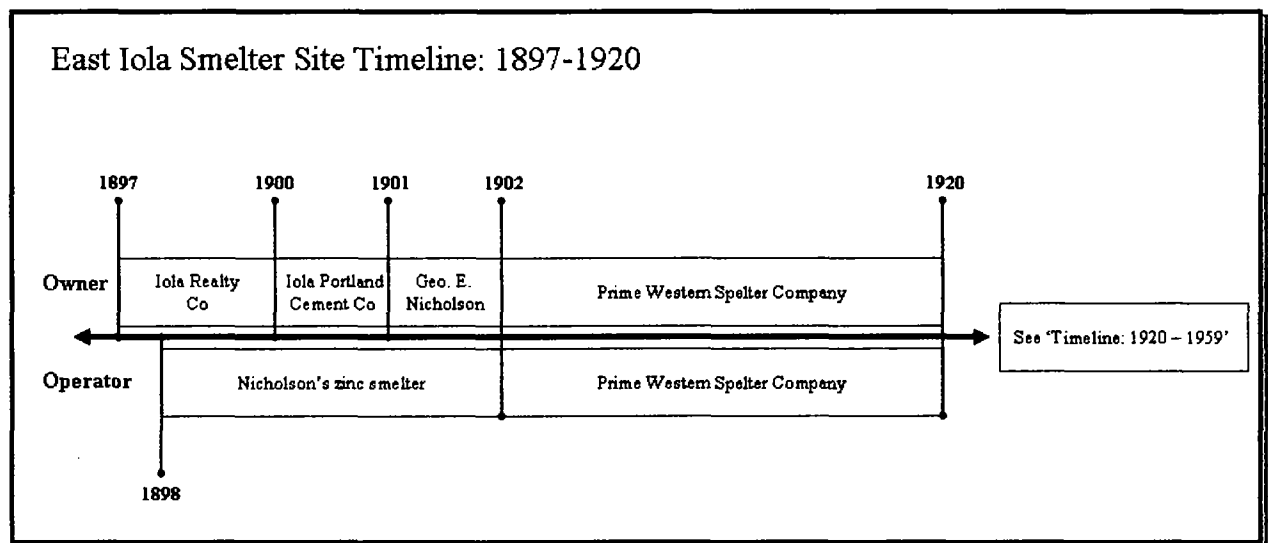


Figure 2: Site Timeline 1897-1920

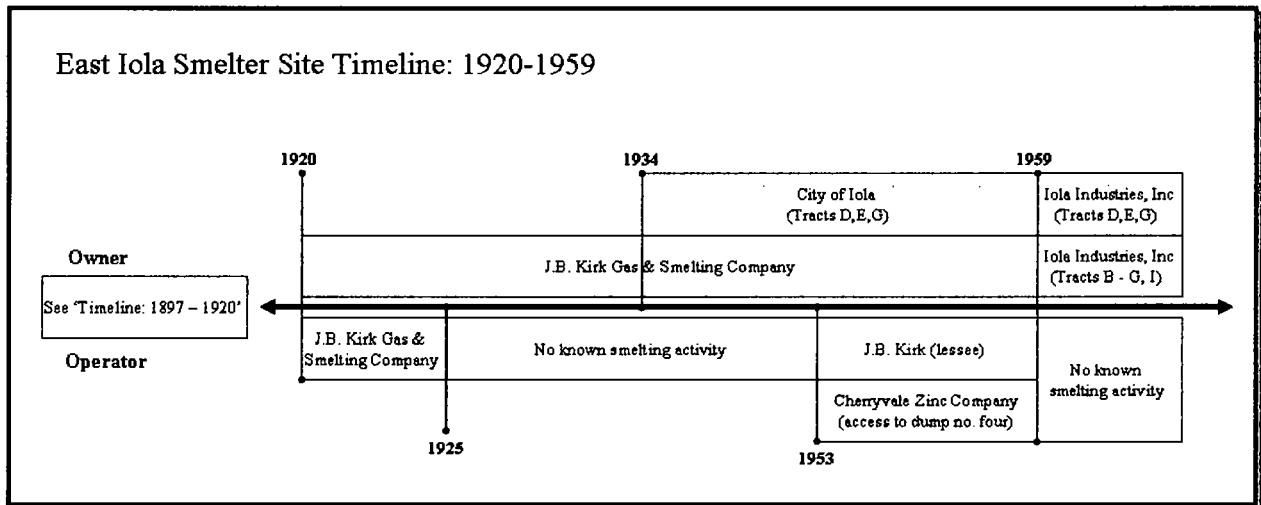


Figure 3: Site Timeline 1920-1959

CONTAMINANTS OF CONCERN

The primary contaminant of concern associated with the Site is lead. On-site smelting activities produced wastes, often in the form of slag, containing high concentrations of heavy metals, such as lead. Often the waste material was reprocessed to extract valuable metal contents, or used as fill for construction. (1)

Initial investigations began on-site in 1994, when Kansas Department of Health & Environment (KDHE) performed sampling on visible smelter waste piles. The analyzed samples revealed lead, cadmium, and arsenic exceeding acceptable levels. On June 1, 1999 Larry Macha, a current owner of Site property, entered the East Iola Smelter Site into the Voluntary Cleanup Property Redevelopment Program (VCPRP). Subsequent investigations showed lead impacts concentrated in the northeastern portion of the Site. (9)

In October of 1999, Allgeier, Martin & Associates, Inc. began lead excavating procedures from all areas except the northeast portion of the Site. Wastes were excavated from the Larry Macha property, deposited in the northeast corner, and capped. See Figure 4 for property divisions. (9)



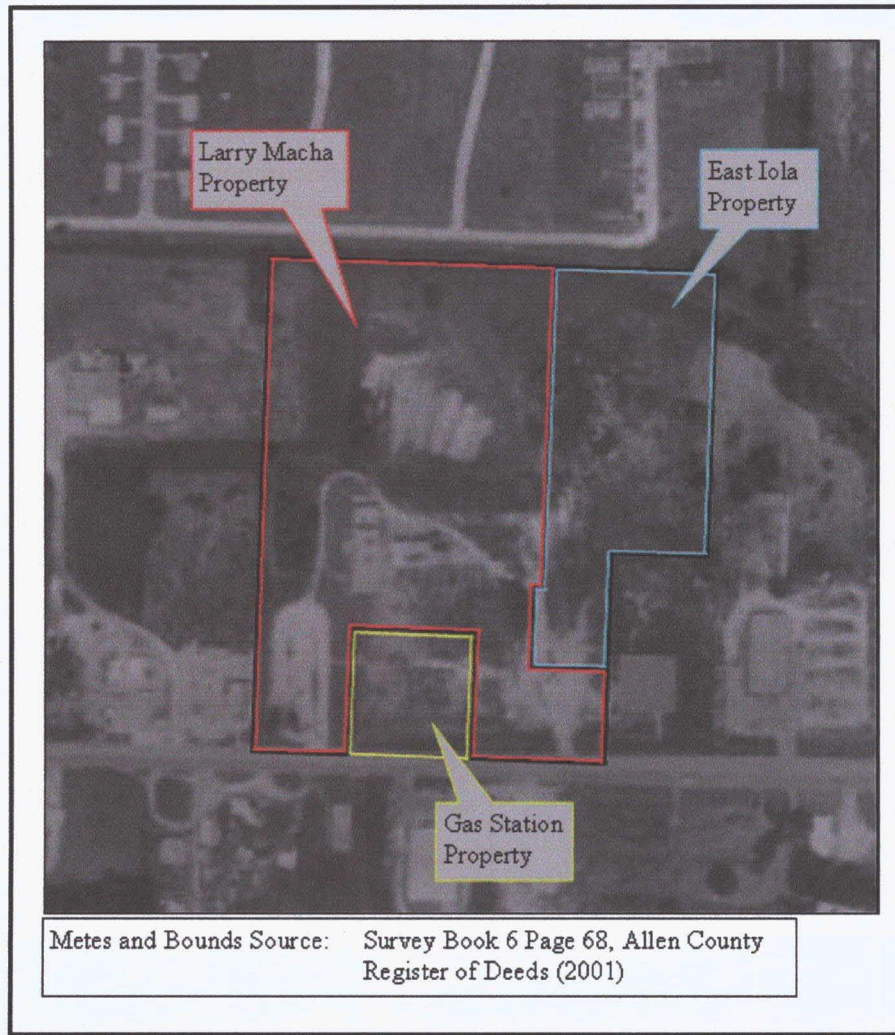


Figure 4: 2001 VCPRP Survey Boundaries



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II. OWNERSHIP HISTORY

REVIEW OF TITLE DOCUMENTS

The RA and RS were instructed to review all title/deed documents relevant to historic smelting activities on the Site property. The RA and RS used pertinent title/deed documents to determine site boundaries. The research determined smelting activities occurred across an area that is now divided into nine parcels of land, referenced as Tracts A - I. Their legal descriptions can be found in 'Attachment B: Chain of Title Tables'. The current owner information for the Site parcels is listed in the Table 1 below:

Assessors Parcel No	Tract	Current Owner	Property Address	Mailing Address	On-Site Structures
077-25-0-30-19-002-10-0	A	Lawrence L. Macha	411 Kansas Dr., Iola KS 66749	Same	Mini Warehouse (Built in 2003)
077-25-0-30-19-002-09-0	B	Lawrence L. Macha	1710 Monroe, Iola KS 66749	Same	N/A
077-25-0-30-19-002-01-0	C	B & B Movie Theatres, L.L.C.	1802 East St. Iola Kansas 66749	201 N Washington, Iola KS 66749	Cinema/Theatre (Built in 2001)
077-25-0-30-19-002-08-0	D	Lawrence L. Macha	100 N. Sterling, Iola KS 66749	Same	N/A
077-25-0-30-19-002-03-0	E	Lawrence L. Macha	1710 East St. Iola Kansas 66749	Same	N/A
077-25-0-30-19-002-04-0	F	Macha Enterprises, Inc.	1702 East St. Iola Kansas 66749	PO Box 220 Gas KS 66742	Manual Car Wash (Built in 2000)
077-25-0-30-19-002-05-0	G	Macha Enterprises, Inc.	1700 East St. Iola Kansas 66749	PO Box 220 Gas KS 66742	Convenience Market (Built in 2000)
077-25-0-30-19-002-06-0	H	Lawrence L. Macha	1650 East St. Iola Kansas 66749	Same	N/A
077-25-0-30-19-002-07-0	I	Lawrence L. Macha	1704 East St. Iola Kansas 66749	Same	Warehouse (Built in 1970)

Table 2: Current Parcel Information (4)





Figure 5: East Iola Site with color-coded tracts

CURRENT AND PAST OWNERSHIP HISTORY

Historical and current ownership of the Site is summarized in chronological order in 'Attachment B: Chain of Title Tables'. The title search revealed several gaps in ownership history. CGS, in partnership with the Allen County Recorder of Deeds, attempted to close the indicated gaps without success.

LEASES

On August 28, 1953, the J.B. Kirk Gas & Smelting Company entered into a lease agreement with J.B. Kirk, the company's president, for the term of five years. The lease, recorded at the Allen County Register of Deeds in book M52, page 105, granted J.B. Kirk access to all cinder residues that resulted from previous on-site smelting activities. The Site property is referenced in the lease as 'Dump No. Four'.

AGREEMENTS

On August 28, 1953, J.B. Kirk entered into an agreement with Cherryvale Zinc, recorded in book M52, page 110 of the Allen County Register of Deeds. J.B. Kirk held a lease covering Tracts A - I, which contained a cinder residue dump. The agreement granted Cherryvale the option of purchasing and removing cinder residue from dump number 4 (renamed dump number 3 in the 1956 agreement) for a period of 6 months from the date of the agreement.



On October 24, 1956 the Estate of J.B. Kirk, deceased, represented by Stanley J. Kirk, Executor, entered into an agreement with Cherryvale Zinc Company, Inc. for the term of one year. The agreement granted Cherryvale the option of purchasing and removing cinder residue from dump number 3 (Tracts A-I of the Site property). The agreement is recorded in book M55 on page 143 of the Allen County Register of Deeds.

The on-site dump contained 14,210 tons of cinder residues. Figure 10 on page 30 shows the location of Dump No. 4 relative to the Site.

On August 26, 1971, an agreement was made between Corbett A. and Sandra T. Thompson (first party), Thompson Poultry, Inc. (second party), and Sell Constructors Inc. (third party). The agreement covered tracts B, C, F, G, H and I, and established that Sell Constructors Inc. would construct buildings in the present and future for Thompson Poultry, Inc. on the property. The agreement recorded in book M82, page 155 of the Allen County Register of Deeds.

On December 28, 1978, Thompson Poultry, Inc. and Tyson Foods, Inc. entered into an agreement pertaining to tracts B, C, F, G, H and I. The agreement assigned to Tyson Foods, Inc. a lease agreement already established with the City of Iola on June 1, 1972. The lease term was through 1992, giving Thompson the option to purchase the property on any June 1 or December 1 from 1982 to 1992. Thompson Poultry, Inc. exercised the option to purchase on January 10, 1989. The agreement assignment recorded in book M93, page 386 of the Allen County Register of Deeds.

ZONING

According to the City of Iola Zoning Commission, all parcels of the East Iola Smelter Site are zoned as 'General Business'.

TITLE TREES

Title Trees for Tracts A-I of the Site are in 'Attachment A: Title Trees'.



On October 24, 1956 the Estate of J.B. Kirk, deceased, represented by Stanley J. Kirk, Executor, entered into an agreement with Cherryvale Zinc Company, Inc. for the term of one year. The agreement granted Cherryvale the option of purchasing and removing cinder residue from dump number 3 (Tracts A-I of the Site property). The agreement is recorded in book M55 on page 143 of the Allen County Register of Deeds.

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ZONING

According to the City of Iola Zoning Commission, all parcels of the East Iola Smelter Site are zoned as 'General Business'.

TITLE TREES

Title Trees for Tracts A-I of the Site are in 'Attachment A: Title Trees'.



III. POTENTIALLY RESPONSIBLE PARTIES OWNERS AT THE TIME OF DISPOSAL

SUMMARY

Historical evidence indicates that from 1898 to 1902 a zinc smelter associated with George E. Nicholson operated on the East Iola Smelter Site property². The exact corporate name of the on-site smelter is unknown. During the four-year time span three owners appeared on title instruments covering Site property: Iola Realty Company, Iola Portland Cement Company, and George E. Nicholson.

Smelting is known to have occurred on the Site property and may be a source of the lead contamination detected in the soil at the Site. Under CERCLA Section 107(a) (2) PRP liability law, Iola Realty Company, Iola Portland Cement Company, and George E. Nicholson are considered PRPs because each owned the Site property during the time of disposal.

PRP sections A, B and C provide available details on these three PRPs. The following section accounts for the on-site smelter operations between 1898 and 1902.

NICHOLSON SMELTER OPERATIONAL INFORMATION

Evidence of George E. Nicholson's on-site smelting activity from 1898-1902 is apparent in several historical sources. Table 3 provides a timeline of Nicholson's operational statistics.

Date	Activity	Source
1898	George E. Nicholson erects a zinc smelter of 1,200 retorts	2
1901	George E. Nicholson increased the smelting capacity at his works to 68 percent	5
1902	George E. Nicholson zinc smelter plant bought by Prime Western Spelter Company. New Jersey Zinc Company is involved in the purchase.	2

Table 3: Nicholson smelting activities

Additional evidence of George Nicholson's smelting activity prior to the plant's transfer to Prime Western is found in a table from the Bi-Monthly Bulletin of the American Institute of Mining Engineers (published 1905). The table details the growth of the zinc industry in the Midwest from 1863-1904. In 1902, the Prime Western Spelter Company, referred to as 'Prime Western Zinc Co.', included two plants in Gas, Kansas, and one plant called 'Nicholson Zinc Co.' in Iola.

² For a detailed account of smelter operations refer to subheading 'Nicholson Smelter Operational Information' (Page 17)



Figure 6 provides an image of the table:

Year of Construction.	Name of Company.	Abandoned.		In Operation.	
		No. of Retorts.	Total.	No. of Retorts.	Total.
COAL-BURNING SMELTERS—ILLINOIS.					
1863	Matthiessen & Hegeler Zinc Co., LaSalle.			3,344	
1869	Illinois Zinc Co., Peru.			3,360	
1876	Lumaghi Zinc Works, Collinsville.	244			
1886	Collinsville Zinc Co., Collinsville.			1,036	
1892	Waukegan Zinc Works, Waukegan.			672	
1891	Winona Zinc Works, Winona.			448	
1897	Sandoval Zinc Works, Sandoval.	244		672	10,022
MISSOURI.					
1869	Missouri Zinc Works, Carondelet.	1,020			
1872	Martindale Zinc Works, Carondelet.			2,000	
1878	Edgar Zinc Co., Carondelet Zinc Works.				
1881	Joplin Zinc Works, Joplin.	1,120			
1883	Rich Hill Zinc Works, Rich Hill.			672	
1887	Robert Lanyon, Nevada.	1,044			
1896	Geo. E. Nicholson, Nevada.		3,484	672	3,844
KANSAS.					
1874	Weir City Zinc Works, Weir City.	1,200			
1878	Robert Lanyon, Pittsburg.	1,200			
1881	S. H. Lanyon & Bro., Pittsburg.	800			
1882	W. & J. Lanyon, Pittsburg.	840			
1882	Granby Mining & Smelting Co., Pittsburg.	912			
1888	Seamonsville Zinc Works, Seamonsville.	400			
1886	Girard Zinc Works (old), Girard.	448			
1890	Girard Zinc Works (new), Girard.	396			
1891	Pittsburg & St. Louis, Pittsburg.			896	
1890	Weir City North Works, Pittsburg.			1,344	
1886	Chicopee Zinc Co., Cherokee.	448			
1894	Midland Smelting Co., Bruce.	1,120	8,064		2,240
Totals.			11,792		15,606
NATURAL-GAS BURNING SMELTERS—INDIANA.					
1892	Columbia Zinc Works, Marion.	800			
1898	Ingalls Zinc Works, Ingalls.	744			
1893	Upland Zinc Works, Upland.	600	2,144		
KANSAS.					
1897	Robert Lanyon Sons Smelter Co., Iola.				
1898	Lanyon Zinc Co., Robert Lanyon Sons Smelter Co., La Harpe.			9,600	
1897	W. & J. Lanyon, Iola.				
1898	Prime Western Z. Co., Gas City.				
1902	Prime Western Zinc Co., Nicholson Z. Wks., Iola.			8,900	
1902	A. B. Cockerill, Gas City.				
1898	Cherokee-Lanyon Zinc Co., Gas City.			2,400	
1899	Edgar Zinc Co., Cherryvale.			4,800	
1901	United Zinc & Chemical, Iola.			2,400	
1902	Granby Mining & S. Co., Neodesha.			2,100	
1903	La Harpe Zinc Co., La Harpe.			1,200	
1903	Chanute Zinc Co., Chanute.			1,200	
1904	A. B. Cockerill, Altoona.			1,800	
1904	Wm. Lanyon, Caney.			1,800	87,480
Total in gas-district.			2,144		38,080
Total in coal-district.			11,792		15,606
Grand total.			13,936		53,686

Figure 6: Zinc Industry Statistics 1905 (Source: 4)

Based on available information, Nicholson's zinc smelter cannot be legally tied to the East Iola Smelter Site property.



A. IOLA REALTY COMPANY

SUMMARY

Historical evidence indicates that during Iola Realty Company's period of ownership a zinc smelter operated on-site³. Smelting is known to have occurred on the Site property and may be a source of the lead contamination detected in the soil at the Site. Under CERCLA Section 107(a) (2) PRP liability law, Iola Realty Company is considered a PRP because it owned the Site property at the time of disposal.

OWNERSHIP / LEASE HISTORY

The Iola Realty Company purchased the entire southwest quarter of Section 25, Township 24, Range 18 East from Henry P. Merriam on March 3, 1897. The transaction recorded in book 19, page 318 of the Allen County Register of Deeds.

On May 2, 1900, Iola Realty sold the Site property to Iola Portland Cement Company (26-514).

CORPORATE HISTORY

On March 2, 1897, A.W. Beck, A.L. Taylor, J.A. Robinson, W.J. Evans, Geo. A. Bowlus, F.A. Northrup, and T.E. Kelly incorporated the Iola Realty Company in Kansas. The principal office was in Iola, KS and the purpose for which the company was formed was, "to buy sell and improve real estate for the benefit of its members". (24)

According to the Kansas State Historical Society's corporate dead jacket file, the company's term expired on March 2, 1917 (25). No other records were available.

PROPERTY BOUNDARY/SITE DESCRIPTION:

For a parcel map, see Figure 1 or Figure 5.

³ For a detailed account of smelter operations refer to subheading 'Nicholson Smelter Operational Information' (Page 17)



B. IOLA PORTLAND CEMENT COMPANY

SUMMARY

Historical evidence indicates that during Iola Portland Cement Company's period of ownership a zinc smelter operated on-site⁴. Smelting is known to have occurred on the Site property and may be a source of the lead contamination detected in the soil at the Site. Under CERCLA SECTION 107 (a) (2) PRP liability law, Iola Portland Cement Company is considered a PRP because it owned the Site property at the time of disposal.

OWNERSHIP / LEASE HISTORY

The Iola Portland Cement Company purchased the Site property from the Iola Realty Company on May 2, 1900 (26-514).

On January 8, 1901, Iola Portland Cement Company sold land covering Tracts B through G of the Site property to George E. Nicholson. The Transaction was recorded in book 27, page 191 of the Allen County Register of Deeds.

On April 16, 1902, Iola Portland Cement sold Nicholson a 25-foot wide tract directly to the West of his current land, covering parts of Tracts B and G. The transaction was recorded in book 33, page 404 of the Allen County Register of Deeds.

Iola Portland Cement sold the remaining Site property (Tracts ABGHI) to Prime Western Spelter Company on May 25, 1915 (43-75; 59-164).

CORPORATE HISTORY

The Iola Portland Cement Company applied for a Charter in Kansas on May 12, 1899. The Charter granted for a term of fifty years and filed with the Kansas Secretary of State on June 7, 1899. The directors were, John T. Holmes, William L. Holmes, Geo. A. Bowlus, Herschel Hatch, James French, Oscar Foust, and L.L. Northrup. (22)

According to the Kansas State Historical Society's corporate dead jacket file, the company's term expired on June 7, 1949 (23). No other records were available.

PROPERTY BOUNDARY/SITE DESCRIPTION:

For a parcel map, see Figure 1 and Figure 5.

⁴ For a detailed account of smelter operations refer to subheading 'Nicholson Smelter Operational Information' (Page 17)

C. GEORGE E. NICHOLSON

SUMMARY

Historical evidence indicates that during George E. Nicholson's period of ownership a zinc smelter operated on-site⁵. Smelting is known to have occurred on the Site property and may be a source of the lead contamination detected in the soil at the Site. Under CERCLA Section 107(a) (2) PRP liability law, George E. Nicholson is considered a PRP because he was an owner of the Site property at the time of disposal. He was born in New York in 1861 and died on April 9, 1937 (10).

OWNERSHIP / LEASE HISTORY

George E. Nicholson acquired Tracts B through G of the Site property from The Iola Portland Cement Company on January 8, 1901. The Transaction recorded in book 27, page 191 of the Allen County Register of Deeds.

On April 16, 1902, Iola Portland Cement sold Nicholson a 25-foot wide tract directly to the West of his current land, covering parts of Tracts B and G. The transaction recorded in book 33, page 404 of the Allen County Register of Deeds.

Nicholson maintained ownership until July 1, 1902, when he sold a section of land covering Tracts A, B, G, H, and I to Prime Western Spelter Company (33-626).

CORPORATE HISTORY

George E. Nicholson was born in New York in 1861 and died on April 9, 1937 (10).

PROPERTY BOUNDARY/SITE DESCRIPTION:

George E. Nicholson owned the entire Site property during 1901 and 1902, at which time a zinc smelter was in operation.

For a parcel map, see Figure 1 or Figure 5.

SMELTERS

D. PRIME WESTERN SPELTER COMPANY

SUMMARY

Prime Western Spelter Company owned portions of the Site property from 1902 to 1925 and operated an on-site zinc smelter until 1920. Smelting is known to have occurred on the Site property and may be a source of the lead contamination detected in the soil at the Site. According to CERCLA Section 107 (a) (2) PRP liability can be applied to Prime Western Spelter Company because it was an owner and operator of the Site property at the time of

⁵ For a detailed account and references on smelter operations refer to subheading 'Nicholson Smelter Operational Information' (Page 17)



disposal. Prime Western dissolved on March 24, 1924; no corporate successors were located.

OWNERSHIP / LEASE HISTORY

Prime Western Spelter Company purchased Tracts B through G of the Site property from George E. Nicholson on July 1, 1902. The transaction was recorded in book 33, page 626 of the Allen County Register of Deeds. Zinc industry statistics from 1902 show that Prime Western absorbed George E. Nicholson's zinc smelter at Iola during this transaction (4). There is also evidence, documented in a U.S. Geological Survey publication from 1902 that implicates another company's involvement in the purchase:

In 1902, interests identified with the New Jersey Zinc Company purchased the works of the Prime Western Spelter Company and the new plant of Mr. A. B. Cockerill, both at Gas, Kans., and the two plants of Mr. George E. Nicholson, at Iola, Kans., and Nevada, Mo. (5)

The documentation infers that New Jersey Zinc Company was not the direct purchaser, but it was involved in the purchase. At this time there is no conclusive evidence tying New Jersey Zinc Company to the transactions surrounding the Site property.

On May 24, 1915, Prime Western purchased the remaining property covering tracts A, B, G, H, and I from Iola Portland Cement Company. Two separate transactions recorded in book 43, page 75 and book 59, page 164 of the Allen County Register of Deeds.

Prime Western maintained ownership of the property until December 16, 1920, when the company sold property covering Tracts A, B, G, H, and I to J.B. Kirk Gas & Smelting Company. The transaction recorded in book 70, page 455 of the Allen County Register of Deeds.

OPERATIONAL INFORMATION

Date	Activity	Source
July 1902	Prime Western purchases the Site property and absorbs George Nicholson's smelter	4
1902	The New Jersey Zinc Company is involved in the purchase of the Iola works	2
1907	Iola plant has 3 furnaces and 3,220 retorts	13
1910	Iola plant has 10 zinc furnaces and 3,240 retorts	6
1920	Prime Western Spelter Company's works at Iola are idle	7

Table 4: Prime Western Spelter Operational Information



CORPORATE HISTORY

Incorporation

Prime Western Spelter Company incorporated in Missouri on August 22, 1898, "to mine and dig for minerals of all kinds, to conduct a milling or smelting business, to buy and sell real estate to lease and operate mining lands" (30). The incorporators were, L.T. McRae, L.H. Callaway, G.R. Godfrey, J.A. Daly, and F.M. Daly (30).

Application for Authority in Kansas

Prime Western Spelter Company applied on October 27, 1904 for permission to engage in business in Kansas as a foreign corporation. The Kansas Secretary of State approved the application on November 10, 1904. The Officers listed were as follows:

G. G. Palmer – President
William Hardenberg – Vice President
Henry G. Wardner – Treasurer
A. P. Cobb – Secretary (31)

Withdraw from Kansas

Prime Western Spelter Company withdrew from the State of Kansas on December 6, 1922 and published it's withdraw notice in the Iola Daily Register on November 22, 1922. Baxter McLain signed as the company's representative in Kansas. (32)

Dissolution

On March 19, 1924, Edgar Palmer, President of Prime Western Spelter Company, signed a Certificate of Dissolution, dissolving the company by way of stockholders meeting. (33)



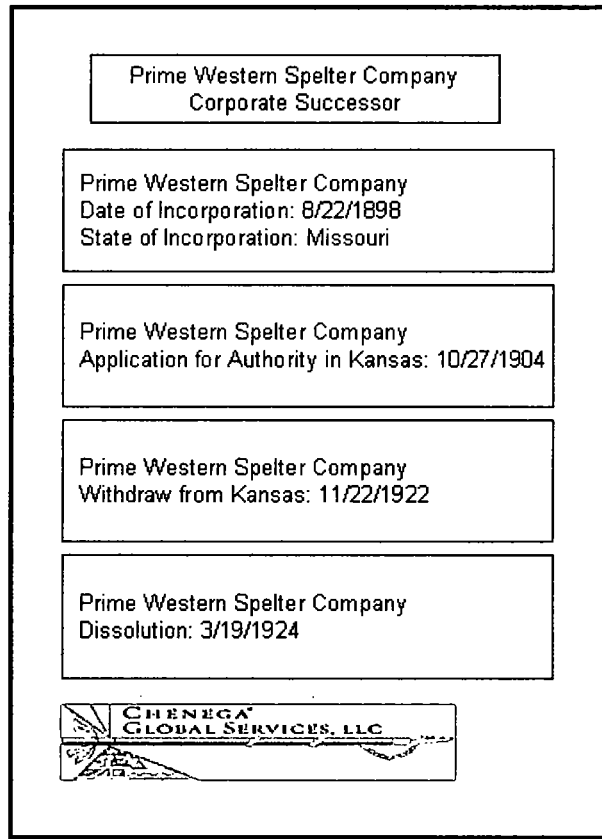


Figure 7: Prime Western Spelter Company Corporate Successor Chart

PROPERTY BOUNDARY/SITE DESCRIPTION:

Prime Western Spelter Company owned the Site property from 1902 to 1920. For a parcel map, see Figure 1 or Figure 5.



E. J.B. KIRK GAS & SMELTING COMPANY

SUMMARY

J.B. Kirk Gas & Smelting Company operated the Site from 1920 until 1925, when all smelter operations ceased. They maintained ownership of certain tracts of Site property until 1959. During the company's final years of ownership, it leased the Site property to J.B. Kirk, granting him access to all cinder residues that resulted from previous on-site smelting activities. Kirk, the individual, then allowed Cherryvale Zinc Company access to the on-site dumps. In this capacity, J.B. Kirk Gas & Smelting Company arranged for the access and removal of on-site smelter wastes.

Smelting is known to have occurred on the Site property and may be a source of the lead contamination detected in the soil at the Site. According to CERCLA Section 107(a) (3) PRP liability can be applied to J.B. Kirk Gas & Smelting Company, as it was an arranger of the treatment of wastes. J.B. Kirk Gas & Smelting Company is dissolved; no corporate successor could be located.

OWNERSHIP / LEASE HISTORY

J.B. Kirk Gas & Smelting Company purchased property covering Tracts A, B, G, H, and I from the Prime Western Smelter Company on December 16, 1920. The transaction was recorded in book 70, page 455 of the Allen County Register of Deeds.

On January 23, 1934, the company sold property covering Tract D, E, and G to the City of Iola (98-297).

J.B. Kirk Gas & Smelting Company sold its remaining Site property to Iola Industries, Inc. on 4/24/1959. The transaction covered Tracts B, C, D, E, F, G, and I, and recorded in book 133, page 402 of the Allen County Register of Deeds.

Leases

On August 28, 1953, the J.B. Kirk Gas & Smelting Company entered into a lease agreement with J.B. Kirk, the company's president for the term of five years. The lease recorded on book M52, page 105 of the Allen County Register of Deeds and granted J.B. Kirk access to all cinder residues that resulted from previous on-site smelting activities. The Site property is referenced in the lease as 'Dump No. 4'.

Agreements

During the period of J.B. Kirk Gas & Smelting Company ownership, J.B. Kirk, lessee of the Site property, entered into two consecutive agreements with Cherryvale Zinc Company to access the cinder residues of Dump No. 4 (M52-110, M55-143). Details regarding the agreements are included in Cherryvale Zinc Company's PRP Section of this report (see page 28).

OPERATIONAL INFORMATION

J.B. Kirk Gas & Smelting Company operated the on-site smelter from 1920-1924. All operations ceased during 1925 (9). A Sanborn map from 1924 showed J.B. Kirk Gas & Smelting Company's Iola works on-site. No other operational information was located for J.B. Kirk Gas & Smelting Company.

CORPORATE HISTORY

The Kansas Secretary of State and the Kansas State Historical Society had no records available for J.B. Kirk Gas & Smelting Company. The Kansas Secretary of State provided a record of the company's dissolution.

Incorporation

The Kansas Secretary of State online database indicates that J.B. Kirk Gas & Smelting Company incorporated in Kansas on August 16, 1912. No other documentation of the company's incorporation was available. (26)

Dissolution

Stockholders meeting on July 19, 1995 dissolved J.B. Kirk Gas & Smelting Company, a Kansas corporation. Marvin E. Kraft, President and director, affixed his signature on the same date. The document was filed with the Kansas Secretary of State on September 13, 1995. (27)

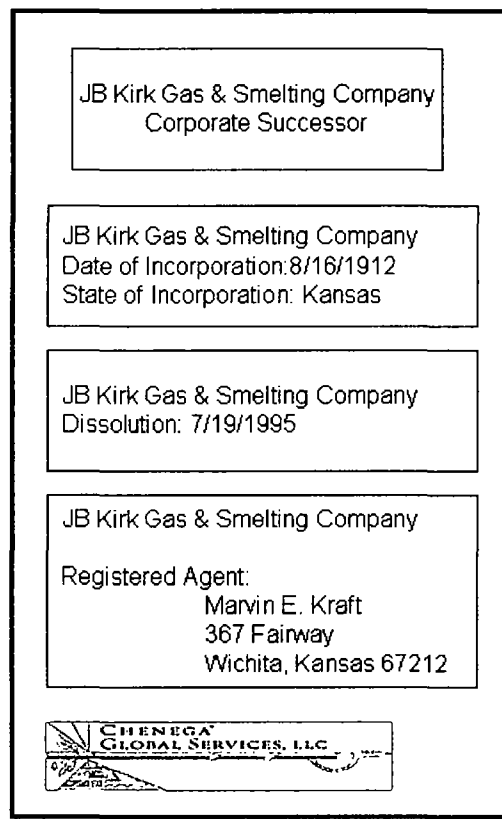


Figure 8: J.B. Kirk Gas & Smelting Company Corporate Successor Chart

PROPERTY BOUNDARY/SITE DESCRIPTION:

For a parcel map, see Figure 1 or Figure 5.



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ARRANGERS

F. J.B. KIRK

SUMMARY

In 1953, J.B. Kirk leased an area known as Dump No. 4, which covered the entire Site property. During his five-year lease, he entered into an agreement that granted Cherryvale Zinc Company access to the cinder residues contained in Dump No. 4.

In this capacity, J.B. Kirk arranged for the access and removal of on-site smelter wastes. Smelting is known to have occurred on the Site property and may be a source of the lead contamination detected in the soil at the Site. According to CERCLA Section 107(a) (3), J.B. Kirk is considered a PRP, as he was an arranger of the treatment of wastes. J.B. Kirk is not a viable PRP; he is deceased (M55-143).

OWNERSHIP / LEASE HISTORY

Leases

On August 28, 1953, the J.B. Kirk Gas & Smelting Company entered into a lease agreement with J.B. Kirk, the company's president for the term of five years. The lease recorded on book M52, page 105 of the Allen County Register of Deeds and granted J.B. Kirk access to all cinder residues that resulted from previous on-site smelting activities.

The Site property is referenced in the lease as 'Dump No. 4'.

Agreements

On August 28, 1953, JB Kirk entered into an agreement with Cherryvale Zinc recorded in book M52, page 110 of the Allen County Register of Deeds⁶. On October 24, 1956 the Estate of JB Kirk, deceased, represented by Stanley J. Kirk, Executor, entered into an agreement with Cherryvale Zinc Company, Inc. for the term of one year.

CORPORATE HISTORY

A title document from October of 1956, identified J.B. Kirk as deceased (M55-143).

OPERATIONAL INFORMATION

CGS found no operational information.

PROPERTY BOUNDARY/SITE DESCRIPTION:

J.B. Kirk gained access to smelting waste on-site through a lease made with J.B. Kirk Gas & Smelting Company from 1953 through 1958. The cinder residue dump referenced in the lease covered the majority of the Site property. Figure 10 shows the dump area relative to the Site boundary.

⁶ For full details, see PRP Section G: Cherryvale Zinc Company



TRANSPORTERS

G. CHERRYVALE ZINC COMPANY

SUMMARY

Cherryvale Zinc Company did not own or lease the East Iola Site property. Between 1953 and 1957, the company was granted access to a cinder residue dump on-site. See below for details on the agreements.

Smelting is known to have occurred on the Site property and may be a source of the lead contamination detected in the soil at the Site. Cherryvale Zinc Company transported wastes found on the Site. According to CERCLA Section 107 (a) (3), PRP liability can be applied to Cherryvale Zinc Company because it was a transporter of smelter wastes. Cherryvale Zinc Company dissolved on August 26, 1977 and no corporate successors were located.

OWNERSHIP / LEASE HISTORY

Cherryvale Zinc Company did not own or lease the East Iola Smelter Site property. Between 1953 and 1957, the company accessed cinder residue dumps on-site. See below for details on the agreements.

Agreements

On August 28, 1953, J.B. Kirk entered into an agreement with Cherryvale Zinc recorded in book M52, page 110 of the Allen County Register of Deeds. J.B. Kirk held a lease covering Tracts A - I, which contained a cinder residue dump. The agreement allows Cherryvale the option of purchasing and removing cinder residue from Dump No. 4 (renamed Dump No.3 in the 1956 agreement) for a period of 6 months from the date of the agreement.

On October 24, 1956 the Estate of J.B. Kirk, deceased, represented by Stanley J. Kirk, Executor, entered into an agreement with Cherryvale Zinc Company, Inc. for the term of one year. The agreement granted Cherryvale the option of purchasing and removing cinder residue from Dump No. 3 (Tracts A-I of the Site property). The agreement recorded in book M55 on page 143 of the Allen County Register of Deeds. The on-site dump contained 14,210 tons of cinder residues

OPERATIONAL INFORMATION

CGS found no operational information.

CORPORATE HISTORY

Incorporation

Cherryvale Zinc Company, Inc. incorporated in the State of New York on January 1, 1950, "to carry on business to smelt, refine, and concentrate" (18). The incorporators were, Benno Elkan, C.H. Scherf, and Julian B. Beaty. (18)

Application for Authority as a Foreign Corporation in Kansas

On February 27, 1950, Cherryvale Zinc Company applied to the Charter Board of Kansas for permission to engage in business as a foreign corporation. The application approved February 27, 1950. The Officers listed were as follows (18):



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Julian B. Beaty, President
 O. Frohnknecht, Vice-President
 C.H. Scherf, Treasurer
 E. H. Mann, Secretary
 Carl M. Elkan, Manager

Withdraw from the State of Kansas

On February 9, 1973, Cherryvale Zinc Company, Inc. surrendered its authority to transact business in the State of Kansas. The Certificate of Withdraw filed with the Kansas Secretary of State on May 10, 1973. (20)

Dissolution

Cherryvale Corporation dissolved by way of stockholders meeting on August 8, 1977.

R. Fred Baerwald, President and Stanley J. Titch, Secretary/Treasurer are listed as the company's only officers. The Certificate of Dissolution filed with the New York Secretary of State on August 26, 1977. (21)

<p>Cherryvale Zinc Company Corporate Successor</p>
<p>Cherryvale Zinc Company Date of Incorporation: 1/1/1950 State of Incorporation: New York</p>
<p>Cherryvale Zinc Company Application for Authority in Kansas: 2/27/1950</p>
<p>Cherryvale Zinc Company Withdraw from Kansas: 5/10/1973</p>
<p>Cherryvale Zinc Company Dissolution: 8/26/1977</p>
<p>CHENEGA GLOBAL SERVICES, LLC</p>

Figure 9: Cherryvale Zinc Company Corporate Successor

PROPERTY BOUNDARY/SITE DESCRIPTION:

Cherryvale Zinc Company gained access to smelting waste on-site through agreements made with J.B. Kirk from 1953 through 1957. The cinder residue dump covered the majority of the Site property. Figure 10 shows the dump area relative to the Site boundary:

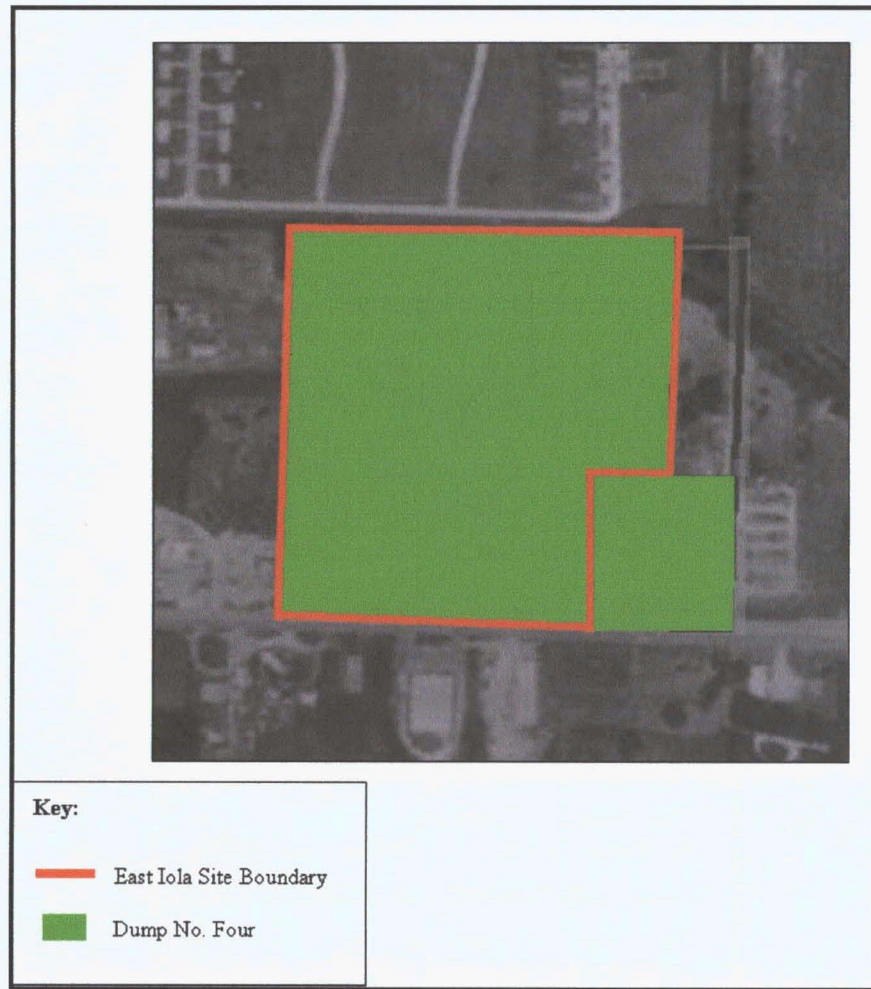


Figure 10: East Iola Site Dump No. 4.

CURRENT OWNERS

H. B & B MOVIE THEATRES, L.L.C.

SUMMARY

B & B Movie Theatres, L.L.C. has maintained ownership of Tract C of the Site property since 2007. The company operates a movie theatre on-site. According to CERCLA Section 107(a) (1), PRP liability can be applied to B & B Movie Theatres, L.L.C., as it is a current owner of the Site property. As of May 2010, the company is delinquent in Kansas.



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OWNERSHIP / LEASE HISTORY

B & B Movie Theatres, L.L.C. purchased the majority of Tract C of the Site property from Lawrence Macha on September 7, 2001. The transaction recorded in book A8, page 103 of the Allen County Register of Deeds.

On November 21, 2007, B & B purchased the remaining land of Tract C from Lawrence and Virginia Macha. The transaction recorded in book 2007, page 0846 of the Allen County Register of Deeds.

B & B Movies Theatres, L.L.C. is the current owner of Tract C of the Site.

OPERATIONAL INFORMATION

The company operates a movie theatre on-site called 'Sterling Six' at 1802 East Street.

CORPORATE HISTORY*Incorporation*

B & B Movie Theaters, L.L.C. incorporated in Missouri on November 8, 1996 to "acquire, own, build, develop, and manage movie theaters and book stores". The sole incorporator listed is David W. Walker.

Application for Authority in Kansas

On July 11, 2000 B & B applied for and was granted authority to "own real estate and receive rents" in Kansas.

Name Change

B & B changed its corporate name to B & B Movie Theatres, L.L.C. on May 14, 2003.

Current

According to the Kansas Secretary of State, the company's registered agent is:

Eric Olson
210 North Washington
Iola, KS 66749



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<p align="center">B & B Movie Theatres, L.L.C. Corporate Successor</p>
<p>B & B Movie Theaters, L.L.C. Date of Incorporation: 11/8/1996 State of Incorporation: Missouri</p>
<p>B & B Movie Theaters, L.L.C. Application for Authority in Kansas: 1/11/2000</p>
<p>B & B Movie Theaters, L.L.C. Name Change to B & B Movie Theatres, L.L.C 5/14/2003</p>
<p>B & B Movie Theatres, L.L.C. Registered Agent in Kansas: Eric Olson 210 North Washington Iola, KS</p>


Figure 11: B & B Movie Theatres, L.L.C. Corporate Successor

PROPERTY BOUNDARY/SITE DESCRIPTION:

For a parcel map showing Tract C, see Figure 1 or Figure 5.

I. MACHA ENTERPRISES, INC.**SUMMARY**

Macha Enterprises, Inc., an asphalt product and roadway repair company, is the current owner of Tracts F and G. According to CERCLA Section 107(a) (1), PRP liability can be applied to Macha Enterprises, Inc., as it is a current owner of the Site property. As of May 2010, the company is delinquent in Kansas.



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OWNERSHIP/LEASE HISTORY

Macha Enterprises, Inc. purchased Tracts F and G of the Site property from Lawrence and Virginia Macha on January 11, 2008. The transaction recorded in book 2008, page 0095 of the Allen County Register of Deeds.

Macha Enterprises, Inc. is the current owner of Tracts F and G.

OPERATIONAL INFORMATION

CGS found no operational information.

CORPORATE HISTORY*Incorporation*

Mach Enterprises, Inc. incorporated in Kansas on September 16, 1991. Lawrence and Robert Macha signed as the incorporators, intending to, "engage in...the business of producing, applying, or otherwise using asphalt and asphalt products or other materials in the construction and repair of roadways, streets or other surfaces or structures". (28)

As of May 2010, the business is listed as delinquent with the Kansas Secretary of State. Its registered agent is:

Lawrence L. Macha
515 South Main
Gas, KS 66742 (29)

A general internet search for the registered address revealed that also listed at this address is Se-Kan Asphalt Services, Inc.; Lawrence L. Macha is the CFO.

PROPERTY BOUNDARY/SITE DESCRIPTION:

For a parcel map with Tracts F and G, see Figure 1 or Figure 5.

J. LAWRENCE L. MACHA**SUMMARY**

Lawrence L. Macha owned the entire Site property from 1990 until 2001. He is the current owner of Tracts A, B, D, E, H and I of the Site property. Any on-site operations are unknown. According to CERCLA Section 107(a) (1), PRP liability can be applied to Lawrence L. Macha, as he is a current owner of the Site property.

OWNERSHIP/LEASE HISTORY

On February 6, 1990, Lawrence L. Macha purchased the entire Site property from Thompson Poultry Inc. (181-288).

In 2001, Macha sold Tract C to B & B Movie Theatres, Inc. (A7-592). In January of 2008 Larry Macha sold Tracts F and G to Macha Enterprises, Inc., the company that he incorporated in 1991 (2008-0095).

As of May 2010, Lawrence Macha is the current owner of Tracts A, B, D, E, H and I of the Site property.

OPERATIONAL INFORMATION

CGS found no operational information for Lawrence L. Macha.

CORPORATE HISTORY

Lawrence Macha is listed as the registered agent of Macha Enterprises, Inc. As of May 2010, the business is delinquent in Kansas. Macha is also the CFO of Se-Kan Asphalt Services Inc., an active Kansas corporation.

Contact Information:

Lawrence (Larry) Macha
2805 N Funston St.
Iola, KS 66749
Phone: 620-365-8141

PROPERTY BOUNDARY/SITE DESCRIPTION:

For a parcel map, see Figure 1 or Figure 5.

ADDITIONAL CORPORATE PROPERTY OWNERS

During the collection and review of Site title instruments, CGS found several corporations that owned Site property. EPA asked CGS to account for these businesses and their on-site operations. Based on the information gathered, the corporations listed cannot be classified as Potentially Responsible Parties. Business information available for these companies is provided in Table 5 of the report body and is duplicated in Attachment H: Corporate Property Owners.

Company	Dates of Ownership	Tract	Nature of business / Notes	Source
Iola Industries, Inc.	4/24/1959 - 12/29/1961 4/24/1959 - 9/7/1966	A, B, C, D, E, F, G, H, I	Industrial development corporation	1
Thompson Poultry, Inc.	12/28/1977 - 1/10/1989	A, B, C, D, E, F, G, H, I	Poultry processing – became Thompson Processors, Inc.	2
Thompson Processors, Inc.	9/25/1969 – 1/9/1970	B, C, D, E, F, G	Poultry processing – merged into Tyson Foods, Inc.	2
Tyson Foods, Inc.	12/28/1978	A, H, I	Chicken, beef, and pork processing and marketing	3

Table 5: Corporate Property Owners (for sources see Attachment H)



CONCLUSIONS

According to Chenega Global Services research, the following entities are considered potentially Responsible Parties pursuant to CERCLA Section 107 (a) for the following reasons:

Owners at the Time of Disposal

The following are included as PRPs based on evidence that, during their period of Site ownership, a smelter associated with George E. Nicholson operated on-site. Smelting is known to have occurred on the Site property and may be a source of the lead contamination detected in the soil at the Site. The on-site smelter's corporate name is unknown and cannot be legally tied to the East Iola Smelter Site property. According to CERCLA Section 107(a) (2) PRP liability can be applied to the following three parties, as they were owners of the Site property at the time of disposal:

Iola Realty Company, a Kansas corporation, owned the Site property from 1897 through 1900. The company expired on March 2, 1917; no corporate successor was located.

Iola Portland Cement Company, of Kansas, owned the Site property from 1900 to 1901. The company expired on June 7, 1949; no corporate successor was located.

George E. Nicholson, an individual, owned Site property during 1901 and 1902; he is deceased (April 9, 1937).

Smelting Operations

Smelting is known to have occurred on the Site property and may be a source of the lead contamination detected in the soil at the Site. According to CERCLA Section 107(a) (2) PRP liability can be applied to the following entities, as they were owners and operators at the time of disposal:

Prime Western Spelter Company, a Missouri corporation, owned the full Site property between 1902 and 1920, during which time it operated a smelting facility. Prime Western Spelter Company withdrew from Kansas on November 22, 1922 and dissolved on March 19, 1924. As of April 2010, no corporate successors were located.

J.B. Kirk Gas & Smelting Company, a Kansas corporation, owned portions of the Site property from 1920 to 1959. The company operated a smelting facility on-site until 1925 and then leased to J.B. Kirk, an individual, in 1953. J.B. Kirk Gas & Smelting Company dissolved on July 19, 1995; no corporate successors were located.

Arrangers

J.B. Kirk, an individual, leased the Site property from J.B. Kirk Gas & Smelting Company on August 28, 1953. The same day, he established an agreement with Cherryvale Zinc Company, allowing the zinc company to access and remove cinder residues that had resulted from previous smelting activities (referred to as Dump No. 4). In this capacity, J.B. Kirk arranged for the relocation of smelting wastes.



Smelting is known to have occurred on the Site property and may be a source of the lead contamination detected in the soil at the Site. According to CERCLA Section 107(a) (3), J.B. Kirk is considered a PRP, as he was an arranger of the treatment of wastes. A title document from October of 1956, identified J.B. Kirk as deceased (M55- 143).

Transporters

Cherryvale Zinc Company, a New York corporation, entered into an agreement with J.B. Kirk, lessee of the Site property, on August 28, 1953, to access and remove cinder residues that had resulted from previous smelting activities. The agreement spanned three years and was renewed at J.B. Kirk's death in 1956 for one year. In this capacity, Cherryvale Zinc Company transported lead-contaminated wastes.

Smelting is known to have occurred on the Site property and may be a source of the lead contamination detected in the soil at the Site. According to CERCLA Section 107(a) (4), Cherryvale Zinc Company is considered a PRP, as it was a transporter of smelter wastes. Cherryvale withdrew from Kansas on May 10, 1973 and was dissolved on August 26, 1977; no corporate successors were located.

Current Owners

According to CERCLA Section 107(a) (1) PRP liability can be applied to the following entities, as they are current owners of the Site property:

B & B Movie Theatres, L.L.C. is a limited liability company organized in Missouri. The company is a current owner of Tract C, approximately 2.96 acres, of the East Iola Smelter Site property. As of April 22, 2010, the company is active in both Kansas and Missouri.

Macha Enterprises, Inc., a for-profit Kansas corporation, is the current owner of Tracts F and G of the East Iola Smelter Site property. The tracts cover approximately 4.78 acres of land. Lawrence Macha, current owner of the remaining Site property, is the company's registered agent. As of April 2010, Macha Enterprises, Inc. is delinquent in Kansas.

Lawrence L. Macha, an individual, is the current owner of Tracts A, B, D, E, H and I of the Site property. He is also the registered agent for Macha Enterprises, Inc.



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ATTACHMENTS

A: Title Trees

B: Chain of Title Tables

C: Title Instruments

D: Maps

E: Corporate Documents (References 14-33)

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G: Site Timeline

H: Corporate Property Owner Chart

I: Potential Responsible Party Profile Sheets

J: Dun & Bradstreet Business Information Reports



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Former IMP Boats PRP Search Report



726 E. 9th Ave

Anchorage, AK 90501

IMP Boats

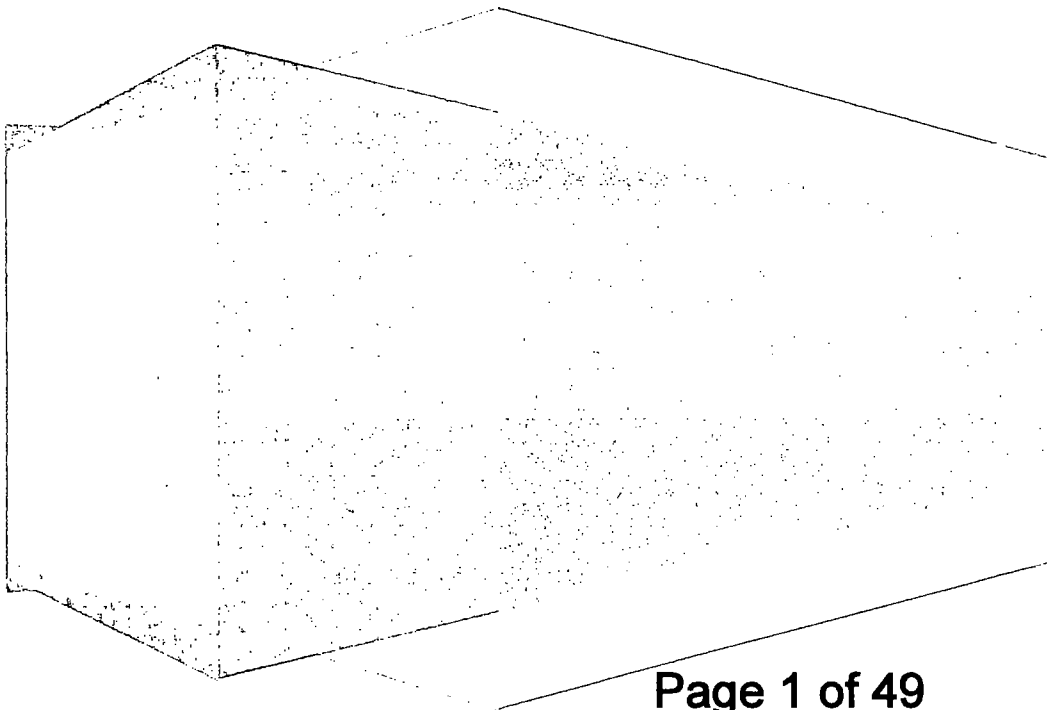
Iola, Allen County, KS

Potentially Responsible Party (PRP) Report

PREPARED FOR:

U.S. ENVIRONMENTAL AGENCY REGION 7, SUPERFUND DIVISION

901 N. 5th STREET, KANSAS CITY, KANSAS 66101



Final August 2010

Task Order Number:

0003

Date Submitted:

August 2010

Contract Number:

A7S1RP00

EPA Work Assignment Manager:

Michelle Quick

Telephone Number:

913-551-7335

On-Site Manager:

Gabrielle Haenn

Telephone Number:

913-551-7154

Project Manager:

Eric D. Bailey

Telephone Number:

856-217-7871



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POTENTIALLY RESPONSIBLE PARTY SUMMARY

Chenega Global Services, LLC (CGS) received Task Order 0003, Project Code 07KYRP00, from the U.S. Environmental Protection Agency (EPA) Region 7 office, under the Superfund Contract Number EP-S7-09-08. The purpose of this task order is to provide EPA's Superfund Division with a vehicle through which to perform expedited site-specific Potentially Responsible Party (PRP) searches in support of the EPA Task Order/Project Officer (TOPO) search activities.

This Potentially Responsible Party Report for the IMP Boats Site (the "Site") summarizes the research conducted by the Records Specialists (RS) and Regulatory Analysts (RA) to determine the Site history. The following Potentially Responsible Party Search Report provides for the ownership/lease history, operational information, Site boundaries, and corporate successors of PRPs for the IMP Boats Site in Allen County, Kansas.

CGS research revealed the following PRPs pursuant to CERCLA Section 107(a) liability law:

PRP	Viability	Reason	CERCLA Liability Law
W & J Lanyon	No	Owner: 1897-1899	107(a)(2)
Robert and William Lanyon d.b.a. Robert Lanyon Son's Spelter Company	No	Owner/Operator: 1896-1899	107(a)(2)
Lanyon Zinc Company	No – defunct 1912	Owner/Operator: 1899-1911	107(a)(2)
J.B. Kirk, individual	No – deceased	Arranger: 1953-1958	107(a)(3)
J.B. Kirk Gas & Smelting Company	No – dissolved 1995	Owner: 1916-1918 Arranger: 1953-1958	107(a)(2) 107(a)(3)
United States Smelting Company	No – withdrawn from Kansas 1920; merged into USSRM ¹	Owner/Operator: 1915-1918	107(a)(2)
Cherryvale Zinc Company	No – dissolved 1977	Transporter: 1953- 1957	107(a)(4)

¹ See the United States Smelting Company PRP Section for important information regarding this merger.

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PRP	Viability	Reason	CERCLA Liability Law
The City of Iola, Kansas	Yes	Current Owner	107(a)(1)
West Bottoms Property, Inc.	Yes	Current Owner	107(a)(1)
A.C.B., Inc.	Yes	Current Owner	107(a)(1)
Douglas D. Rose and Kenneth Rose	Yes - individuals	Current Owner	107(a)(1)

Table 1: Potentially Responsible Parties

I. INTRODUCTION

PROJECT BACKGROUND

Chenega Global Services, LLC (CGS) received Task Order 0003, Project Code 07KYRP00, from the U.S. Environmental Protection Agency (EPA) Region 7 office, under the Superfund Contract Number EP-S7-09-08. The purpose of this task order is to provide EPA's Superfund Division with a vehicle through which to perform expedited site-specific Potentially Responsible Party (PRP) searches in support of the EPA Task Order/Project Officer (TOPO) search activities.

This Potentially Responsible Party Report for the IMP Boats Site (the "Site") summarizes the research conducted by the Records Specialists (RS) and Regulatory Analysts (RA) to determine the Site history.

PROJECT APPROACH

The U.S. Environmental Protection Agency, Region 7, Superfund Division, Kansas City, Kansas contracted Chenega Global Services, Anchorage, AK was to perform the PRP search and report.

LIST OF CONTACTS

- Allen County Register of Deeds
- Allen County Appraiser
- Allen County Zoning Commission
- EPA Region 7 CERCLA Records Center
- Kansas Department of Health and Environment
- Kansas State Historical Society
- Kansas Secretary of State

SITE DESCRIPTION

The IMP Boats Smelter Site is located primarily in the northeast quarter (NE/4) of the southeast quarter (SE/4) of Section 27, Township 24, Range 18 E, but also extends to the north into the southeast quarter (SE/4) of the northeast quarter (NE/4). The Site covers approximately 40 acres adjacent to the west of the right-of-way of the Atchison, Topeka, & Santa Fe Railway, with Lincoln Street dissecting the northern portion, made up of the Lots 1, 2, 7, and 8 of Iola Industrial Tract Number One, from the southern section, comprised of two parcels of unplatted land, all situated on the western edge of Iola, Allen County, KS.



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Figure 1: IMP Boats Site Map with Tracts

The first Site smelting operations commenced in 1895 when Robert Lanyon Son's Spelter Company erected a zinc smelter on the southern area of the Site (Tracts 5, 6). In 1896, Robert Lanyon and William Lanyon leased this property for erecting a zinc smelter (M5-135²). Two years later, W. & J. Lanyon erected a smelter on the lands adjacent to the north (Tracts 1-4) (3). In 1899, the Lanyon Zinc Company was formed and obtained control of both smelters (12). The company continued to operate the Robert Lanyon Son's Spelter Company smelter under lease, but purchased the W. & J. Lanyon Works along with the land.

The two zinc smelters operated under the direction of Lanyon Zinc Company until 1910, when the company defaulted on bond interest payments and went into receivership (5). In

² This citation format is used to for title instrument book and page numbers throughout the report.

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April of 1910, Lanyon Zinc Company foreclosed on its mortgage bonds and the property was sold to Charles H. Werner via an order of sale (17). Smelter operations remained under the direction of Lanyon Zinc Company's receivership until July 1910 when James O. Rogers, acting as receiver of Lanyon Zinc Company, leased the property's on-site smelter operations to The American Metal Company, a New Jersey corporation (17). Operations continued under lease to American Metal Company until December of that year, when the lease was surrendered and the smelters ceased operations (11). For a detailed account of this lease see Lanyon Zinc Company's PRP Section on page 15.

In February of 1911, the property was sold to Edmund L. Judson, who then sold to the Lanyon Zinc Smelting Company, a New York corporation, in March of the same year (57-122, 57-141).

In July of 1912, the Lanyon Zinc Smelting Company sold the smelter property, along with its gas and oil rights and leases, to J.B. Kirk, an individual (M22-125). J.B. Kirk transferred the property to the J.B. Kirk Gas & Smelting Company, a Kansas corporation of which he was president, the following month (M22-141).

In 1915, J.B. Kirk Gas & Smelting Company sold the larger smelter and its lands (Tracts 5, 6) to the United States Smelting Company, and commenced operations that year (24-534, 6). One year later, the United States Smelting Company sold the property back to the J. B. Kirk Gas and Smelting Company, but continued to operate on the Site, presumably under lease. This smelter ceased operations and was dismantled in 1918 (6, 8, 9, 10).

J.B. Kirk, in his name and as president of J.B. Kirk Gas & Smelting Company, executed a number of other transactions regarding the Site property from 1912 to the late 1950's. He owned the Site property, became a lessee, and then set in place an agreement with a third party (Cherryvale Zinc Company) to access a cinder residue dump on the land of which he was lessee (Attachment B: Chain of Title Tables).

In 1934, J.B. Kirk Gas & Smelting Company sold the northern area of the site (Tracts 1-4) to the City of Iola (98_299). This area was later platted as the Iola Industrial Tract Number One. Various small businesses have operated on these lots since, and The City of Iola has a number of government buildings on these properties.

The southeastern portion of the Site (Tracts 5 & 6) was sold in 1967 by the J. B. Kirk Gas & Smelting Company to Gerald L. and Mary Lea Wright, who sold it to the City of Iola the following year (145-605, 147-567). Portions of this property have been owned and used by several different companies, most notably IMP Boats, Inc., and a manufacturer of fiberglass boats. For a full list of current Site owners see Table 1.

CONTAMINANTS OF CONCERN

The primary contaminant of concern associated with the Site is lead. On-site smelting activities produced wastes, often in the form of slag, containing high concentrations of



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heavy metals, such as lead. Often the waste material was reprocessed to extract valuable metal contents, or used as fill in construction.

Kansas Department of Health and Environment (KDHE) investigations revealed elevated levels of lead on the Site and surrounding areas. A Phase II Risk Assessment performed by Environmental Engineering Consultants for Iola Bank and Trust (EPA) in March 1991 showed elevated concentrations of lead, cadmium, and zinc, with some soil samples containing lead at levels as high as 32,000 parts per million (13).

II. OWNERSHIP HISTORY

REVIEW OF TITLE DOCUMENTS

The RA and RS were instructed to review all title/deed documents relevant to historic smelting activities on the Site property. The RA and RS used pertinent title/deed documents to determine site boundaries. The research determined smelting activities occurred across an area that is now divided into six parcels of land, referenced as Tracts 1-6. Their legal descriptions can be found in 'Attachment B: Chain of Title Tables'. The current owner information for the Site parcels is listed in the Table 1 below:

Assessor's Parcel No.	Chain of Title Tract Number	Chain of Title Lot Reference	Current Owner	Property Address
078-27-0-10-01-008.00-0-01	1		Douglas Rose, Kenneth Rose	N Industrial Rd. - Iola, KS 66749
078-27-0-10-01-012.00-0-01	2		City of Iola	801 N. Industrial Rd. Iola, KS 66749
078-27-0-40-03-001.00-0-01	3		Westbottom Properties, Inc.	W. Lincoln Rd. Iola, KS 66749
078-27-0-40-03-001.00-0-01	4	A	Westbottom Properties, Inc.	W. Lincoln Rd. Iola, KS 66749
078-27-0-40-02-001.00-0-01	4	B	Jack McFadden	713 N. Industrial Rd. Iola, KS 66749
078-27-0-40-05-002.00-0-01	5		A C B, Inc	505 W. Lincoln Rd. Iola, KS 66749
078-27-0-40-05-001.00-0-01	6		A C B, Inc	W. Lincoln Rd. Iola, KS 66749

Table 2: Current Parcel Owners (2)

CURRENT AND PAST OWNERSHIP HISTORY

Historical and current ownership of the Site is summarized in chronological order in 'Attachment B: Chain of Title Tables'.

LEASES

On June 1st, 1896 a lease was executed between Mary Northrup, et al and Robert H. Lanyon and William Lanyon. This lease was for the property in Tracts 5a and 6a. The lease stated it was for a period of twenty years, and specified that the Lanyon's were to:

...erect as soon as practicable on said premises a smelter or manufactory and employ therein during the first year of operation not less on an average than fifty (50) laborers or employees a year during the life of this lease, and to maintain and operate said smelter or manufactory during the life of this lease. (M5-135)

On July 16, 1910 James O. Rodgers, receiver for Lanyon Zinc Company, leased the Site property to American Metal Company. For details on this lease see Lanyon Zinc Company's PRP Section of this report (page 17).

On August 28, 1953 the J.B. Kirk Gas & Smelting Company entered into a lease agreement with J.B. Kirk, the company's president for the term of five years. The lease was recorded in Book M52, Page 105 of the Allen County Register of Deeds and granted J.B. Kirk access to all cinder residues that resulted from previous on-site smelting activities. The Site property is referenced in the lease as 'Dump No. Three'.

AGREEMENTS

On August 28, 1953, JB Kirk entered into an agreement with Cherryvale Zinc, which was recorded in Book M52, Page 110 of the Allen County Register of Deeds. JB Kirk held a lease covering Tracts 5A, 5B, 6A, 6B and 6C, which contained a cinder residue dump. The agreement allows Cherryvale the option of purchasing and removing cinder residue from dump number three (renamed Dump No. 2 in the 1956 agreement) for a period of 6 months from the date of the agreement.

On October 24, 1956 the Estate of JB Kirk, deceased, represented by Stanley J. Kirk, Executor, entered into an agreement with Cherryvale Zinc Company, Inc. for the term of one year. The agreement granted Cherryvale the option of purchasing and removing cinder residue from dump number three; it was recorded in Book M55, Page 143 of the Allen County Register of Deeds.

TITLE TREES

Title Trees for Tracts 1-6 of the Site are included in 'Attachment A: Title Trees'.

ZONING

According to the Allen County Zoning Commission, the entire IMP Boast Site property is zoned as 'Industrial'.

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OPERATIONAL INFORMATION

Available operational information pertaining to the IMP Boats Site property is compiled in Table 3 below. The statistics were found in 'The Mineral Industry, Its Statistics, Technology, and Trade' and 'Mineral Resources of the United States' publications for the indicated years.

Year	Operator	Capacity/Notes
1907	Lanyon Zinc Company	5 furnaces / 3000 Ret.
1910	Lanyon Zinc Company - Under lease to American Metal Company	5 furnaces / 6660 Ret
1914	United States Smelting Company	Close of year: no retorts June 1915: 1400 Ret.
1915	United States Smelting Company	3440 retorts
1916	United States Smelting Company	3440 retorts
1917	United States Smelting Company	3440 retorts
1918	United States Smelting Company	dismantled

Table 3: IMP Boats Site Mineral Industry Statistics

III. POTENTIALLY RESPONSIBLE PARTIES

A. W. & J. LANYON

SUMMARY

W. & J. Lanyon are included as PRPs based on evidence that, during their period of Site ownership, the W. & J. Lanyon Works, later renamed Lanyon Zinc Company Works No. 2, operated on-site. Smelting is known to have occurred on the Site property and may be a source of the lead contamination detected in the soil at the Site. According to CERCLA Section 107 (a) (2), PRP liability can be applied to W. & J. Lanyon, as they were owners of the Site property at the time of disposal. No legal documentation was found regarding the smelter works.

OWNERSHIP / LEASE HISTORY

W & J Lanyon purchased Tracts 1-4, 5A, 6B and 6C of the Site from Seth Tozer on June 2, 1897 (22-173). CGS was not able to locate legal documentation indicating that the company



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operated an on-site smelter. The property was sold to George M. Curtis, Jr. on February 10, 1899 (23-433).

OPERATIONAL INFORMATION

John Clark, in his book *Towns and Minerals in Southeastern Kansas; A Study in Regional Industrialization, 1890-1930*, informs the reader that W. & J. Lanyon established a zinc smelter at Iola in 1898.

CORPORATE HISTORY

No corporate information was located.

PROPERTY BOUNDARY/SITE DESCRIPTION:

For a parcel map, see Figure 1.

B. ROBERT LANYON AND WILLIAM LANYON D/B/A ROBERT LANYON SON'S SPELTER COMPANY

SUMMARY

Robert Lanyon Son's Spelter Company owned and leased parts of the Site from 1896 to 1899 and operated a zinc smelter on-site during that time. Historical records indicate that Lanyon Zinc Company absorbed Robert Lanyon Son's Spelter Company and its smelter in 1899 (1).

Smelting is known to have occurred on the Site property and may be a source of the lead contamination detected in the soil at the Site. According to CERCLA Section 107 (a) (2), PRP liability can be applied to Robert Lanyon Son's Spelter Company, as they were owners and operators at the time of disposal.

OWNERSHIP / LEASE HISTORY

Robert and William Lanyon leased Tracts 5C and 6A from Mary Northrup et al. on June 2, 1896. The title document, recorded in Book M5, Page 135 of the Allen County Register of Deeds, indicated that the lease was for a term of 20 years and was made specifically for the purpose of erecting and operating a smelter:

...erect as soon as practicable on said premises a smelter or manufactory and employ therein during the first year of operation not less on an average than fifty (50) laborers or employees a year during the life of this lease, and to maintain and operate said smelter or manufactory during the life of this lease. (M5-135)

In addition to leasing, Robert and William Lanyon purchased Tract 6C from Walter P. Hull in July of 1896 (2-255). A Quit Claim Deed from Water Hull to Robert H. Lanyon, trustee for Robert H. & William Lanyon, lists the individuals as 'doing business as Robert Lanyon Son's Spelter Company' (20-18).



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The Robert Lanyon Son's Spelter Company sold Tract 6C to Charles H. Werner on February 2, 1899 (23-429).

OPERATIONAL INFORMATION

No operational statistics were found for Robert Lanyon Son's Spelter Company.

CORPORATE HISTORY

The New Jersey Department of Treasury and Kansas State Historical Society had no record of Robert Lanyon's Sons Spelter Company (40).

PROPERTY BOUNDARY/SITE DESCRIPTION:

For a parcel map, see Figure 1.

C. LANYON ZINC COMPANY**SUMMARY**

Lanyon Zinc Company owned and operated on the IMP Boats Site from 1899 to 1911. The majority of the Site transactions pertaining to this company relate to Case No. 8464 of the District Court of Allen County: Trust Company of America, Trustee (Plaintiff) v. Lanyon Zinc Company, et al. (Defendants). In addition to complex court proceedings, the Lanyon Zinc Company was involved with two other companies that are mentioned in Case 8464; American Metal Company (New Jersey) and The American Metal Company, Limited (New York). The relationship between Lanyon Zinc Company and each of these entities is clearly defined in Lanyon's 'Operational History' section on page 19 of this report.

Lanyon Zinc Company conducted on-site smelting activities. Smelting is known to have occurred on the Site property and may be a source of the lead contamination detected in the soil at the Site. According to CERCLA Section 107 (a) (2), PRP liability can be applied to Lanyon Zinc Company because it was an owner and operator of the Site property at the time of disposal. Lanyon Zinc Company is not a viable PRP; it is defunct and no corporate successors could be located.

Details of Lanyon Zinc Company's ownership history and Case No. 8464 are included in the subsequent sections.

OWNERSHIP HISTORY

On March 1, 1899, Lanyon Zinc Company purchased the Robert Lanyon Son's Spelter Company works. George M. Curtis conveyed the land covering Tracts 1 through 4, Tract 5c and Tract 6b of the Site and Charles H. Werner sold Tract 6c (23-501, 23-497). At the time of purchase, Lanyon Zinc took over the on-site works of Robert Lanyon Son's Spelter Company and W. & J. Lanyon (12). The company continued to operate the Robert Lanyon Son's Spelter Company smelter under a lease to Robert and William Lanyon from 1896 (Tracts 5A & 6A), but purchased the W. & J. Lanyon Works along with the land.



Anchorage, AK

Renamed Lanyon Zinc Company Works No. 1 & No. 2, these smelters operated under the direction of Lanyon Zinc Company until 1910, when the company defaulted on bond interest payments and went into mortgage foreclosure and receivership to protect the bondholders' investments (17). The Trust Company of America, as trustee for the bondholders, brought suit against Lanyon Zinc Company for the defaulted payments; Case 8464 of the District Court of Allen County, Kansas, documented the proceedings; see Table 4 for a timeline of events.

Through an order of sale given during Case 8464 the Site property was sold to Charles H. Werner (17.d). The court ordered all the property of Lanyon Zinc Company, including leases, contracts and stocks in Allen County, to be sold as one parcel to satisfy the mortgage judgment lien that had been placed on the company. The terms of the sale transferred to Werner, the purchaser, "all pending contracts of said receiver in respect to the management and operation of said property...unpaid indebtedness and obligations or liabilities..." (17.d). On April 11, 1910 Charles H. Werner purchased the entire property at auction for \$250,000.00. The purchase settled the company's debt to the bondholders, but did not release the property from its receivership.

On July 16, 1910, a court order issued through the same case allowed James O. Rogers, as receiver of Lanyon Zinc Company, to lease the property to The American Metal Company, a New Jersey Corporation. An unsigned copy of the lease was submitted as part of a court order in Case No. 8464; no original lease was located. There are several important aspects of the lease that pertain to the Site property and the parties involved. For a detailed description of the lease and its relevance to the Site see the section entitled 'Relationship with the American Metal Company of New Jersey' on page 19.

In February of 1911, Lanyon Zinc Company released the property from receivership and conveyed the property to Edmund L. Judson (17.f; 57-122).

CASE 8464: TRUST COMPANY OF AMERICA, TRUSTEE V. LANYON ZINC CO. ET AL.

On March 1, 1899 Lanyon Zinc Company executed \$2,000,000 worth of mortgage bonds under trust to the Colonial Trust Company (merged into Trust Company of America on April 26, 1907) (17.a). The bonds were issued for a 30-year term at six percent annual interest, and payable semi-annually. On March 1, 1909, The Trust Company of America sued Lanyon Zinc Company for the defaulted payments; \$1,792,000 of the bonds remained unpaid. Table 4 shows the progression of the court case from the issuance of the bonds through 1911, when Lanyon Zinc Company broke its final ties to the Site property.

Date	Event	Case 8464 Doc. No.
3/1/1899	Lanyon Zinc Company executes 2,000 first mortgage bonds at \$1000 each.	17.a, page 3



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Date	Event	Case 8464 Doc. No.
3/1/1909	Trust Company of America, trustee for the bondholders, petitions to the District Court of Allen County against Lanyon Zinc Company for defaulted bond payments. The trust company asks for immediate payment if payment is not made the mortgage will be foreclosed.	17.a
4/17/1909	James O. Rodgers is appointed receiver of Lanyon Zinc Company: "...said receiver is hereby authorized, empowered and directed to enter upon and take possession of all the smelting works of defendant Lanyon Zinc Company..."	17.b
2/23/1910	Lanyon Zinc Company's mortgage is foreclosed.	17.c
4/11/1910	Allen County Court orders the property sold as one parcel to the Sheriff of Allen County. Charles H. Werner purchases the property for \$250,000.00 at the sheriff's sale. The purchase settles the company's debt to the bondholders, but does not release the property from its receivership.	17.d
7/16/1910	James O. Rogers, receiver, is granted an order to lease Lanyon Zinc Company's smelting works to American Metal Company	17.g
2/24/1911	J.B. Kirk is appointed receiver of Lanyon Zinc Company	17.e
2/10/1911	J.B. Kirk asks that the property be released from his receivership. Property is conveyed to Edmund L. Judson	17.f

Table 4: Allen County District Court, Case 8464 Timeline

OPERATIONAL HISTORY

On July 16, 1910 James O. Rodgers, receiver for Lanyon Zinc Company, petitioned the district court of Allen County, under Case 8464, for an order to lease the company's smelting works and other property conveyed to Charles H. Werner earlier that year. The order was issued that same day and included a copy of the proposed lease. The order and lease mention the involvement of two companies American Metal Company and The American Metal Company, Limited. In an effort to distinguish between the entities, the following sections detail each company's separate interaction with Lanyon Zinc Company.

RELATIONSHIP TO AMERICAN METAL COMPANY OF NEW JERSEY

According to a New Jersey Secretary of State publication from 1911, American Metal Company filed its certificate in New Jersey on May 25, 1904. Its Registered Agent is listed as Register & Transfer Co. with offices at 15 Exchange Place, Jersey City, NJ (21). Corporate documents for this entity could not be located. (20)



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On July 16, 1910, James O. Rodgers, receiver of Lanyon Zinc Company, petitioned the district court of Allen County, KS and was granted permission to lease Lanyon's three smelter works to American Metal Company (17.g). In his application to the court Rodgers claimed that he was without sufficient capital to continue smelter operations and had the opportunity to lease the plants and property to American Metal Company, a New Jersey corporation. An unsigned copy of the proposed lease was included with the application; the term was set for six months, beginning at midnight on July 16, 1910.

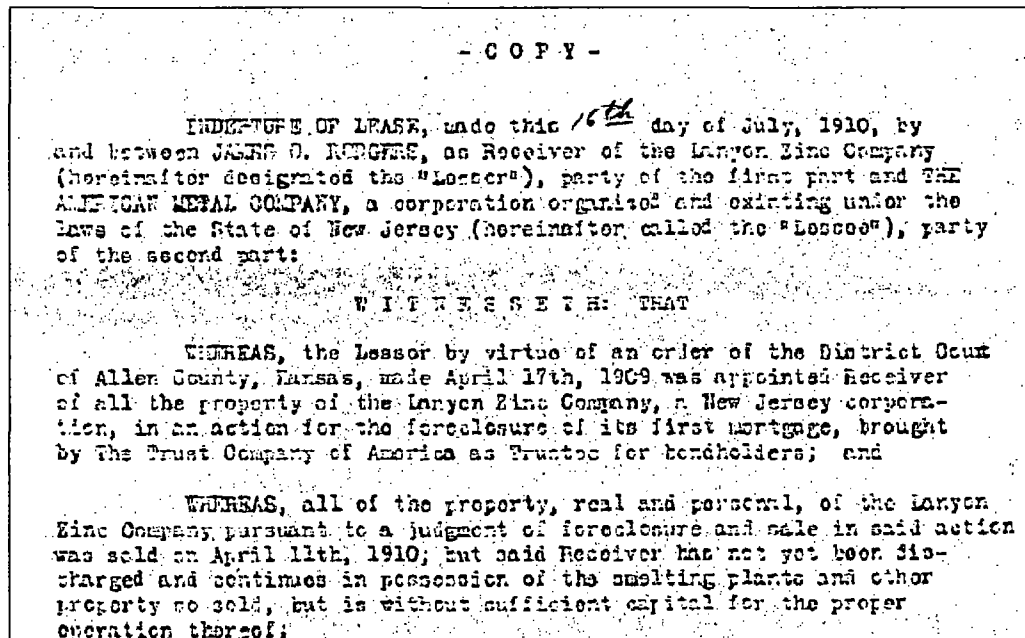


Figure 2: Lease to American Metal Company (New Jersey)

Article III of the lease releases James O. Rodgers from any obligation to The American Metal Company, Limited, of New York. The New York Corporation was not the lessee; The American Metal Company, Limited was a third party supplying ore for smelting purposes.

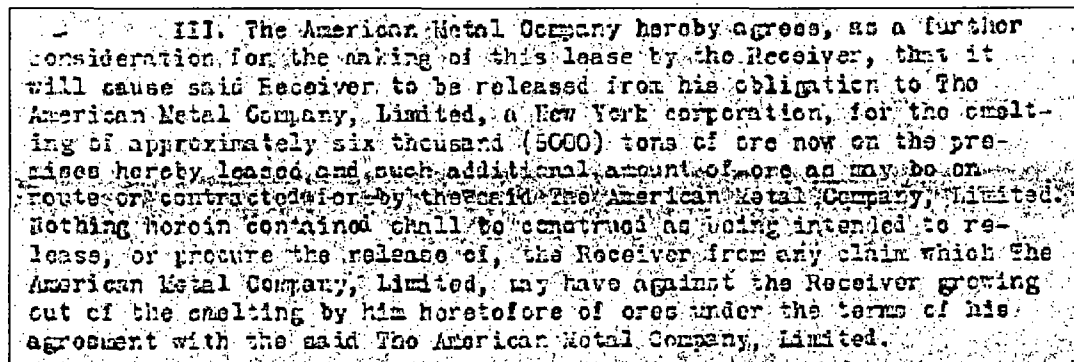


Figure 3: Lease showing American Metal Company, Limited as a third party



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The excerpt shown above clearly indicates that American Metal Company and The American Metal Company, Limited were involved with the Site in two different capacities.

There are several issues with the consistency of the lease copy. Each number corresponds to the callouts in Figure 4:

1. The lease is unsigned by James O. Rodgers, lesser.
2. J. Lanqloth is listed as American Metal Company's president.
3. J. Lanqloth is also listed as The American Metal Company, Limited's president. His name is spelled incorrectly; Jacob Langeloth was an incorporator of The American Metal Company, Limited (See Figure 5).

VI. This agreement shall bind the several parties hereto and their successors and assigns.

IN WITNESS WHEREOF, the said Receiver has hereunto set his hand and affixed his seal, and the said party of the second part has caused its corporate name to be hereunto subscribed and its corporate seal to be affixed by its officers thereunto duly authorized the day and year first above written.

1

As Receiver.

2 → THE AMERICAN METAL COMPANY,
By J. LANQLOTH, Pres.

ATTEST: JULIUS GOLDBMAN
Secretary.

STATE OF NEW YORK,
COUNTY OF NEW YORK, } ss.:
On this 8th day of July, one thousand nine hundred and ten, before me, a Notary Public in and for said county and State, came Jacob Langeloth, a man personally known to me the same person who executed the foregoing agreement as President of The American Metal Company, and thereupon duly acknowledged the execution of the same as such President, and to be the act of the said corporation.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal on the day and the year first above written.

JULIUS LOEB
Notary Public, New York
County, N.Y.

(SEAL)

FOR VALUE RECEIVED, the undersigned, a corporation organized under the laws of the State of New York, does hereby guarantee the performance by The American Metal Company of the covenants and agreements hereinbefore contained on its part to be done and performed.

3 → THE AMERICAN METAL CO., LIMITED,
By J. LANQLOTH, Pres.

ATTEST: JULIUS GOLDBMAN,
Sectry.
(SEAL)

Figure 4: Case 8464 Lease Inconsistencies

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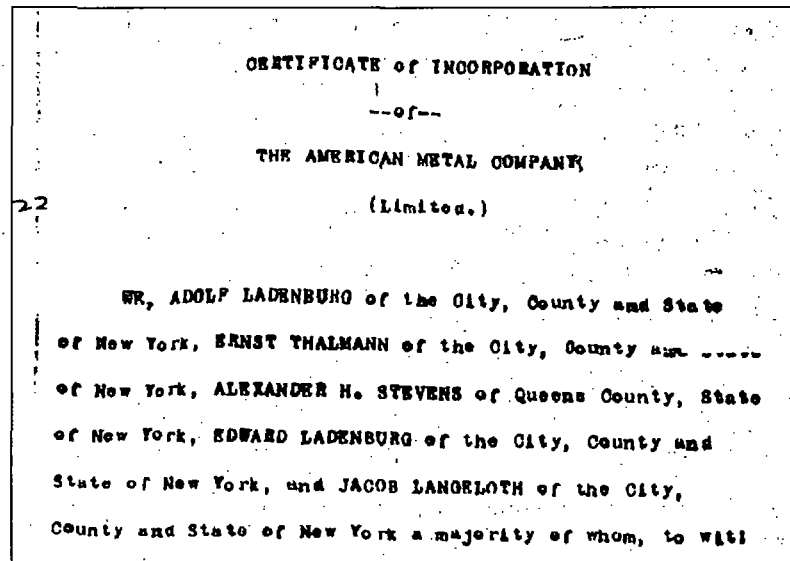


Figure 5: Jacob Langeloth of American Metal Company, Limited (19)

In addition to the lease, a receivers report made by J.B. Kirk as receiver of Lanyon Zinc Co. in 1912 designates American Metal Company as lessee (17.g). The report lists all payments received; including rents from American Metal Company during 1910 (see Figure 6).

1910	Oct. 14, Amt. received of American Metal Co. as rent to Oct. 15, 1910 under lease made by Jas. O. Rodgers as receiver,..... \$100.00
1910	Nov. 1, Amt. paid Campbell & Coshorn on salary as counsel to the Receiver for last half September,..... " 1, Amt. paid Campbell & Coshorn salary as counsel to Receiver for October,..... " 2, Amt. paid to American Cash & Door Company in full of claim,..... " 16, Amt. received of American Metal Co. as rent to Nov. 15, 1910 under lease made by Jas. O. Rodgers Receiver,..... \$100.00
1910	Dec. 15, Amt. received of American Metal Co. in payment of rent to Dec. 15 under lease made by Jas. O. Rodgers as Receiver,..... \$100.00
1910	July 1, Amt. received of American Metal Co. as rent from Dec. 15 to Feb. 26, 1910 under lease made by Jas. O. Rodgers, Receiver,..... \$19.33

Figure 6: Rents received of American Metal Company



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The inconsistencies of the 1910 lease, in combination with the absence of any corporate filings for American Metal Company, of New Jersey, prevent a legal connection from being made between these corporations and the Site property.

RELATIONSHIP TO THE AMERICAN METAL COMPANY, LIMITED OF NEW YORK

The American Metal Company, Limited of New York was mentioned in the above lease as a supplier of ores for smelting. The company's involvement with Lanyon Zinc Company's operations at Iola is further described in Case No. 17,662 of the Supreme Court of Kansas. The metal company referred to herein as 'American Metal Company' is assumed 'American Metal Company, Limited'. The lack of consistency and the similarity in the two company names prevents any clear conclusions from being drawn.

Case No. 17,662 of the Supreme Court of Kansas affirms judgment on F.B. Vandegrift & Company v. Lanyon Zinc Company et al. The case was decided in favor of F.B. Vandegrift in January of 1912 and filed for record on June 8, 1912. J. Burch presided over the case and delivered the opinion, including a case history, summarized below:

At its Iola and La Harpe smelters, Lanyon Zinc Company received ores from The American Metal Company, Limited, a New York corporation. Lanyon Zinc Co. treated the ores and then stored them:

The Lanyon Zinc Company, owning smelters at Iola and La Harpe, smelted imported lead and zinc ore for itself and others. Ultimately it confined its operations to treating ores for the American Metal Company on a toll basis.
(14)

After the ores were assayed, Lanyon Zinc paid duties to the revenue officers. In turn, The American Metal Company, Ltd paid Lanyon Zinc a fee based on the duty price; Lanyon turned a small profit on these transactions.

It was later determined illegal duties were charged and collected by the government revenue officials. Lanyon Zinc protested these fees and hired F.B. Vandegrift & Company, the appellants, to recover the excessive duty charges, agreeing to pay F.B. Vandegrift 50% of those fees recovered.

F.B. Vandegrift secured the return of large sums of duty fees to Lanyon Zinc Company. In April of 1909, Lanyon Zinc Company appointed J.O. Rogers, president of the Company, receiver. J.O. Rogers, as receiver of Lanyon Zinc Co, collected the returned fees for \$22,533.18 in a government warrant.

Immediately after receiving the fees, J.O. Rogers turned them over to The American Metal Company, Ltd. F.B. Vandegrift & Co. did not receive any compensation, and therefore sued J.O. Rogers and Lanyon Zinc Company for their 50%.

A judgment was passed and Rogers ordered to pay \$11,266.69 to F.B. Vandegrift & Company. The defendant appealed, claiming that they should not be held liable for the sum because the ore on which duties were paid belonged to The American Metal Company, Ltd. who ultimately paid the excessive duties.

It was the court's opinion that the contract between Lanyon Zinc and The American Metal Company was of no concern to the case, and that Lanyon Zinc Company was owner of the properties in question. Further, the court ruled that James O. Rogers, as receiver of Lanyon Zinc Company, failed to present the recovered fund to the court where an order for the disposition of said funds could be issued. The opinion quotes, "He could not arbitrarily divest himself of the fund. It should be regarded as still in his possession and the plaintiffs [F.B. Vandegrift & Co] were entitled in equity to a lien upon it for their share" (14).

CORPORATE HISTORY

Incorporation

Lanyon Zinc Company incorporated in New Jersey on February 27, 1899 "to carry on the business of a mining, concentrating, smelting and refining company". The incorporators were, Benjamin Haskell, Martin W. Littleton, and L.B. Grant. (33)

Application to the Charter Board of Kansas

On March 30, 1899, Lanyon Zinc Company applied to the Charter Board of Kansas for permission to engage in business as a foreign corporation. The officers listed were as follows:

Benjamin Haskell, President
 Louis B Grant, Secretary
 Edmund L. Judson, Treasurer

Included within the application is 'Exhibit A: Assets and Liabilities,' which lists the complete holdings of Lanyon Zinc Company upon that date. The document explicitly states that the sole liabilities of Lanyon Zinc Company are as follows:

First Mortgage on all its property \$2,000,000. (Bonds to the amount of \$1,650,000 secured by this mortgage have been issued.)
 Due employee[e]s about \$10,000. (32)

Application for Authority as a Foreign Corporation in Kansas

Lanyon Zinc Company, under the direction of James S. Rogers, submitted an application for authority to engage in business in Kansas as a foreign corporation and was approved on January 18, 1900. The application included an updated account of the company's assets and liabilities, including land ownership of 1,269 acres in Allen County, KS.

In reference to its smelting operations, Lanyon Zinc Company attests:

That the capacity of the smelters owned by said Company is about 100 tons per day, or 36,500 tons per annum; that the capacity of its three smelters located at Iola and La



Harpe is about 90 tons per day...In addition, affiant [James S. Rogers] says that he manages said business of said Company and knows the profits made by said smelters during the past two years, and that he is confident that the profits of said Company from the operation of the smelters now owned by it will continuously pay more than six percent interest on \$5,000,000. (31)

Item number six under 'Exhibit C: List of Other Property Owned by Lanyon Zinc Company' of the application addresses the Allen County smelting properties:

Four smelting plants, two of which are located at Iola, Kansas, one near La Harpe, Kansas, and one at Pittsburg, Kansas, including machinery, tools, approximately 15 miles of pipe lines for conducting natural gas, plant to supply water to Iola smelters, the good will of the former owners giving said Company the control of the two best known brands of spelter in the trade; also including the control of the most efficient and economical roaster known covered by patent for de-sulphurizing ore; patents for introduction of air into furnaces, and other valuable patents on appliances connected with furnaces of the value of more than 1,500,000. (31)

Decrease in Capital Stock

In 1906, Lanyon Zinc Company's stockholders voted to decrease the amount of capital stock. The certificate was signed by J.O. Rogers, President and Edmund L. Judson, Secretary and filed with the New York Secretary of State on February 21, 1907. Included with the certificate is a list of stockholders; notable individuals include The American Metal Co. 'Limited', J.O. Rogers, and the Estate of J.S. Rogers. (34)

Mortgage Foreclosure

In a letter dated February 2, 1912, Lanyon Zinc Company's legal representatives informed the Kansas Secretary of State that the company's property was sold at mortgage foreclosure in early 1910. The law firm also claimed that Lanyon Zinc Company was a defunct corporation. (35)

PROPERTY BOUNDARY/SITE DESCRIPTION:

Lanyon Zinc Company's Works No. 1 and No. 2 covered the Site property. Figure 7 shows the property held under lease compared to the property owned by Lanyon Zinc Company:

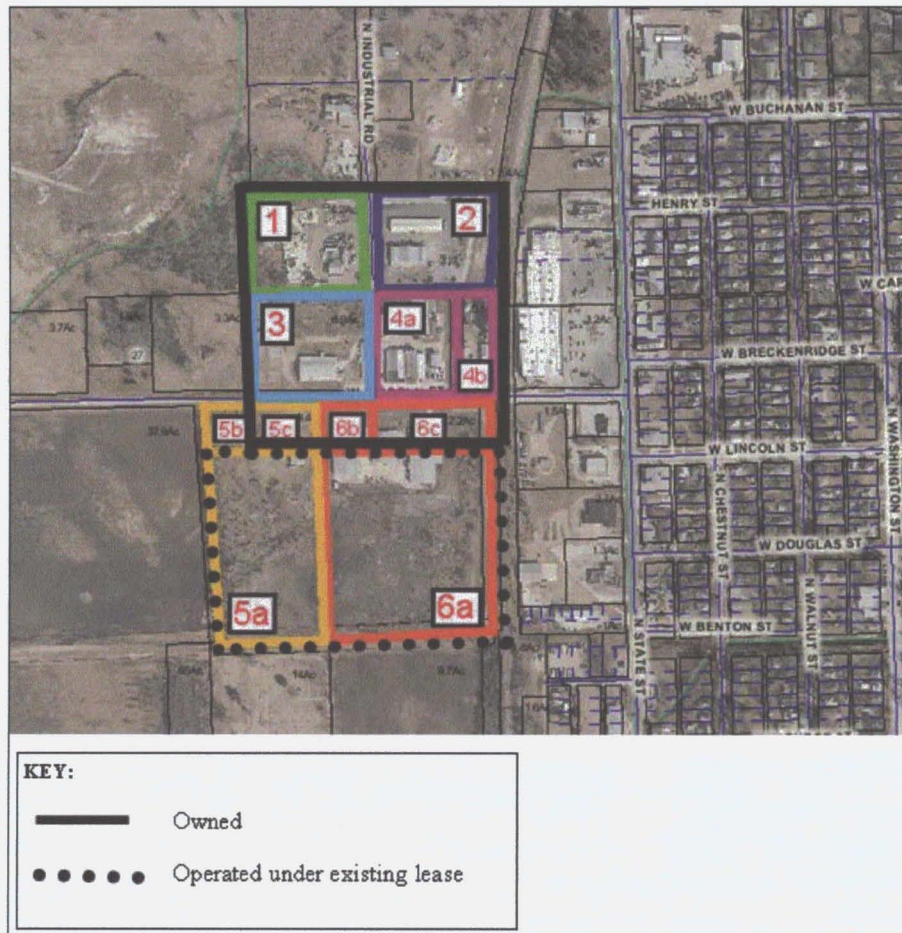


Figure 7: Lanyon Zinc Company ownership vs. property lease

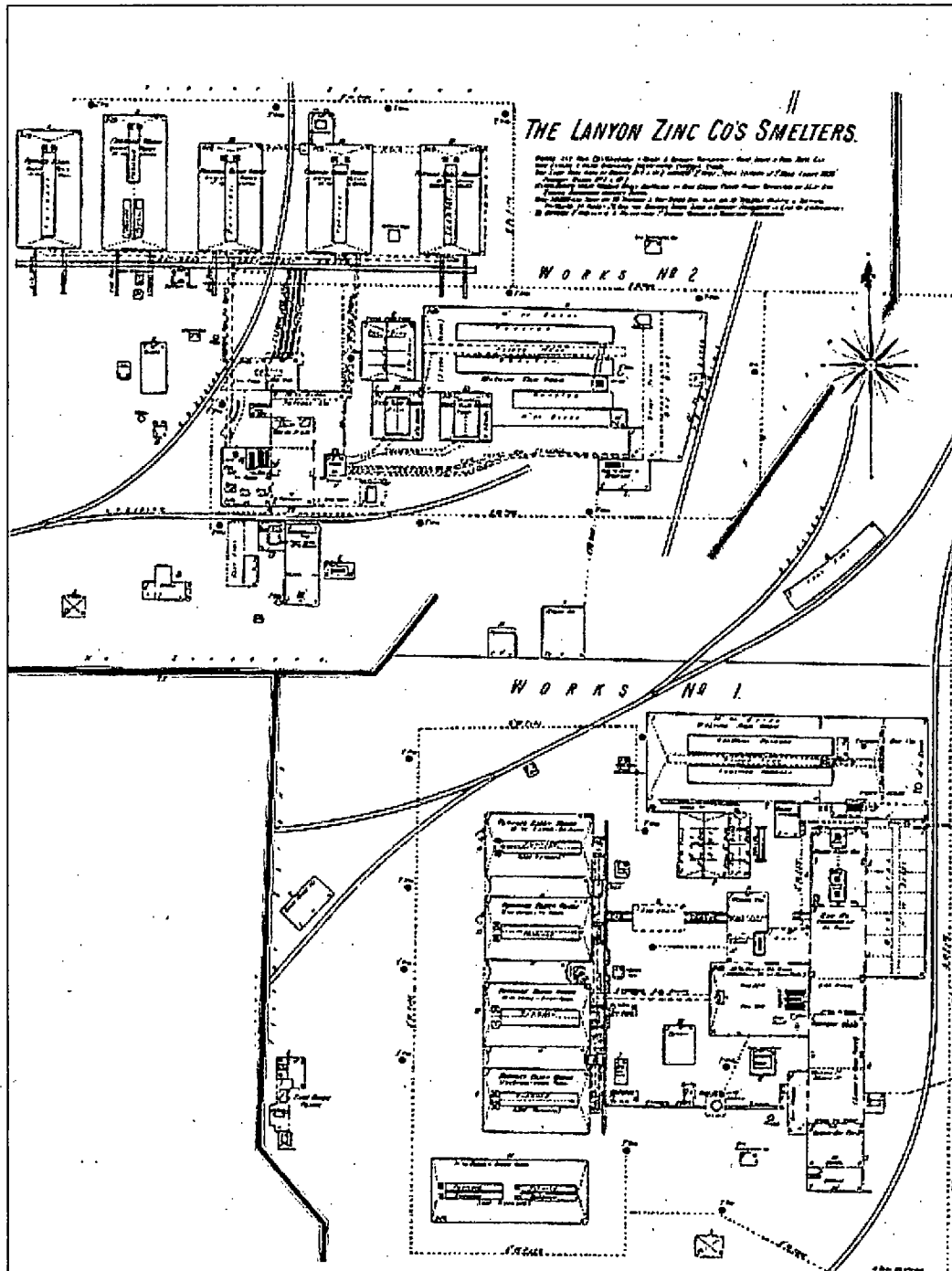


Figure 8: Lanyon Zinc Works No.1 & 2, 1901 Sanborn Map

D. J.B. KIRK GAS & SMELTING COMPANY

SUMMARY

J.B. Kirk Gas & Smelting Company owned the Site property during the time that United States Smelting Company operated an on-site smelter (1916-1918). Smelting is known to have occurred on the Site property and may be sources of the heavy metal contamination detected in the soil at the Site. According to CERCLA Section 107(a) (2), J.B. Kirk Gas & Smelting Company can be considered a PRP, as it was an owner at the time of disposal.

J.B. Kirk Gas & Smelting Company maintained ownership of certain parcels, and in 1953, leased to J.B. Kirk, allowing him access to the on-site cinder residue dump. In this capacity, the company was an arranger for the treatment of smelting wastes. According to CERCLA Section 107(a) (3), J.B. Kirk Gas & Smelting Company can be considered a PRP, as it was an arranger of the treatment of smelting wastes. The company dissolved on September 13, 1995; no corporate successor was located.

OWNERSHIP / LEASE HISTORY

J.B. Kirk Gas & Smelting Company purchased Tracts 1-4, 5C, 6B and 6C from J.B. and Estella Kirk on August 20, 1912 (M22-141). On November 19, 1914, the company acquired Tracts 5A and 6A from the heirs of L.L. Northrup and Thomas Bowlus (59-121).

In June of 1915, J.B. Kirk Gas & Smelting transferred Tracts 5A, 5C, and all of Tract 6 to United States Smelting Company, who then deeded the land back to J.B. Kirk Gas & Smelting Company in July of 1916 (24-534; 59-334).

On January 1, 1934, J.B. Kirk Gas & Smelting Company sold Tracts 1-4 (the northern portion of the Site) to the City of Iola (98-299). The company maintained ownership of Tracts 5A, 5C and all of Tract 6 until 1967 when it transferred the land to Gerald and Mary Lea Wright, two individuals (145-605).

Leases

On August 28, 1953, the J.B. Kirk Gas & Smelting Company entered into a lease agreement with J.B. Kirk, the company's president, for the term of five years. The lease was recorded in Book M52, Page 105 of the Allen County Register of Deeds and granted J.B. Kirk access to all cinder residues that resulted from previous on-site smelting activities. The Site property is referenced in the lease as 'Dump No. Three'.

Agreements

During the period of J.B. Kirk Gas & Smelting Company ownership, J.B. Kirk, lessee of the Site property, entered into two consecutive agreements with Cherryvale Zinc Company to access the cinder residues of 'Dump No. Three' (M52-110; M55-143). Details regarding the agreements are included in Cherryvale Zinc Company's PRP Section of this report (see page 31).

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OPERATIONAL INFORMATION

No operational was located for the J.B. Kirk Gas & Smelting Company Iola works.

CORPORATE HISTORY

The Kansas Secretary of State and the Kansas State Historical Society had no records available for J.B. Kirk Gas & Smelting Company. The Kansas Secretary of State provided a record of the company's dissolution.

Incorporation

The Kansas Secretary of State online database indicates that J.B. Kirk Gas & Smelting Company incorporated in Kansas on August 16, 1912. No other documentation of the company's incorporation was available. (29)

Dissolution

J.B. Kirk Gas & Smelting Company, a Kansas corporation, was dissolved by stockholders meeting on July 19, 1995. Marvin E. Kraft, President and director, affixed his signature on the same date. The document was filed with the Kansas Secretary of State on September 13, 1995. (30)

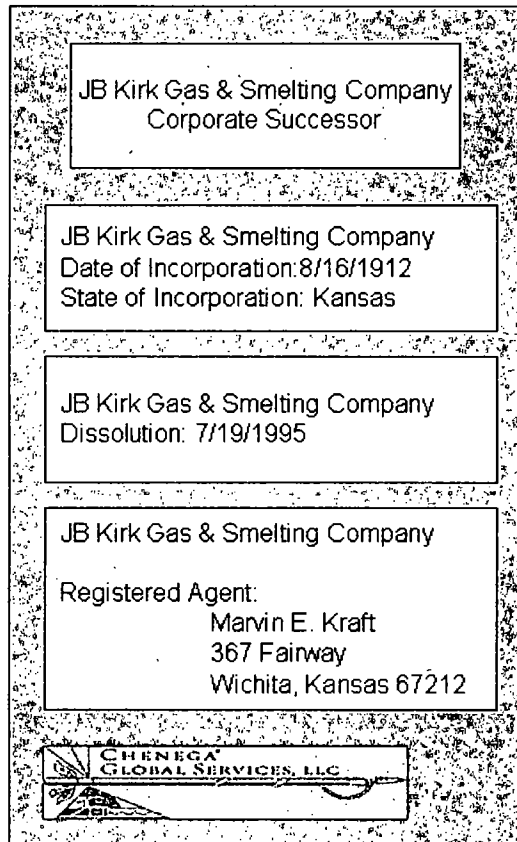


Figure 9: J.B. Kirk Gas & Smelting Company Corporate Successor Chart

PROPERTY BOUNDARY/SITE DESCRIPTION:

For a parcel map, see Figure 1.

E. J.B. KIRK**SUMMARY**

J.B. Kirk was an intermediate Site owner for one month in 1912. In 1953, J.B. Kirk leased an area known as Dump No. 3, which covered the entire Site property. During his five-year lease, he entered into an agreement that granted Cherryvale Zinc Company access to the cinder residues contained in Dump No. 3.

In this capacity, J.B. Kirk arranged for the access and removal of on-site smelter wastes. Smelting is known to have occurred on the Site property and may be a source of the lead contamination detected in the soil at the Site. According to CERCLA Section 107(a) (3), J.B. Kirk is considered a PRP, as he was an arranger of the treatment of wastes. J.B. Kirk is not a viable PRP; he is deceased (M55-143).

OWNERSHIP / LEASE HISTORY

J.B. Kirk acquired Tracts 1-4, 5C, 6B and 6C of the IMP Boats Site from Lanyon Zinc Smelting Company on July 29, 1912 (M22-129). On August 20, 1912 J.B. Kirk transferred the land to J.B. Kirk Gas & Smelting Company (M22-141).

Leases

J.B. Kirk leased the southern portion of the IMP Boats Site, Tracts 5A, 5B, 6A, 6B and 6C from 1953 to 1958.

On August 28, 1953 the J.B. Kirk Gas & Smelting Company entered into a lease agreement with J.B. Kirk, the company's president, for the term of five years. The lease was recorded in Book M52, Page 105 of the Allen County Register of Deeds and granted J.B. Kirk access to all cinder residues that resulted from previous on-site smelting activities. The Site property is referenced in the lease as 'Dump No. Three'.

Agreements

On August 28, 1953, JB Kirk entered into an agreement with Cherryvale Zinc, which was recorded in Book M52, Page 110 of the Allen County Register of Deeds. For full details see Cherryvale Zinc Company's PRP Section on page 31.

On October 24, 1956 the Estate of JB Kirk, deceased, represented by Stanley J. Kirk, Executor, entered into an agreement with Cherryvale Zinc Company, Inc. for the term of one year. For full details see Cherryvale Zinc Company's PRP Section on page 31.

CORPORATE HISTORY

J.B. Kirk is deceased (M22-141).



OPERATIONAL INFORMATION

CGS found no operational information.

PROPERTY BOUNDARY/SITE DESCRIPTION:

J.B. Kirk gained access to smelting waste on-site through a lease made with J.B. Kirk Gas & Smelting Company from 1953 through 1958. The cinder residue dump referenced in the lease covered the majority of the Site property. Figure 11 shows the dump area relative to the Site boundary.

F. UNITED STATES SMELTING COMPANY**SUMMARY**

United States Smelting Company owned Site property from June 1915 to July 1916. According to mineral industry statistics from 1915-1918, after deeding the land to J.B. Kirk Gas & Smelting Company, the United States Smelting Company continued to operate the on-site smelter.

Smelting is known to have occurred on the Site property and may be a source of the lead contamination detected in the soil at the Site. According to CERCLA Section 107 (a) (2), PRP liability can be applied to United States Smelting Company because it was an owner/operator at the time of disposal. United States Smelting Company's property was consumed by United States Smelting Refining and Mining Company in 1918; at the time, the Iola Site no longer belonged to United States Smelting Company; No corporate successor was located for United State Smelting Company in relation to the IMP Boats Site property.

OWNERSHIP / LEASE HISTORY

United States Smelting Company purchased Tracts 5A, 5C, and all of Tract 6 from J.B. Kirk Gas & Smelting Company on June 13, 1915 (24-534). On July 6, 1916 U.S. Smelting Company deeded the land back to J.B. Kirk Gas & Smelting Company (59-334).

OPERATIONAL INFORMATION

According to mineral industry publications, United States Smelting Company operated the on-site smelter from 1915 to late 1917 (see Table 3 for full operational statistics).

CORPORATE HISTORY*Certificate of Organization*

On September 2, 1902, United States Smelting Company filed for Certificate of Organization with the Maine Secretary of State. The Certificate lists the purpose of said corporation as follows:

"... to carry on the business and license others to carry on the business of smelting, refining, dressing, amalgamating and preparing for market gold, silver, copper, zinc,



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iron, lead and coal, and all sorts of ore and metals, mineral substances and stone; ...and smelting corporations and other corporations formed for purposes similar to.. ." (46)

The Certificate of Organization lists five directors as follows: C.A. Hight, L.L. Hight, M.G. Connellan, F.W. Batchelder, and W.F. Moller. Officers are listed as: C.A. Hight, President; LeRoy L. Hight is Clerk; L.L. Hight is treasurer; and C.A. Hight, L.L. Hight, and M.G. Connellan are Directors. (46)

Application for Authority in Kansas

On July 25, 1916, a letter was sent to the Kansas Secretary of State enclosing an Application for Authority to engage in business in the State of Kansas as a foreign corporation. The letter states:

"... This concern is a very substantial institution and is now operating smelting plants at Iola, La Harpe, and Altoona, Kansas. It is doing no other business in the State of Kansas, except that of zinc smelting." (44)

The Kansas Charter Board on August 16, 1916 approved the charter.

Acquisition

On October 1, 1918, the assets of the U. S. Smelting Company were liquidated and the United States Smelting, Refining, and Mining Company acquired all the assets of the United States Smelting Company held at La Harpe, Kansas (43). At the time of acquisition, United States Smelting Company had already sold the IMP Boats property to J.B. Kirk Gas & Smelting Company (59-334).

Withdraw from Kansas

On June 3, 1920, United States Smelting Company filed an Application of Foreign Corporation to withdraw from the State of Kansas. The Charter Board approved the application on June 3, 1920 and filed on June 8, 1920. (45)



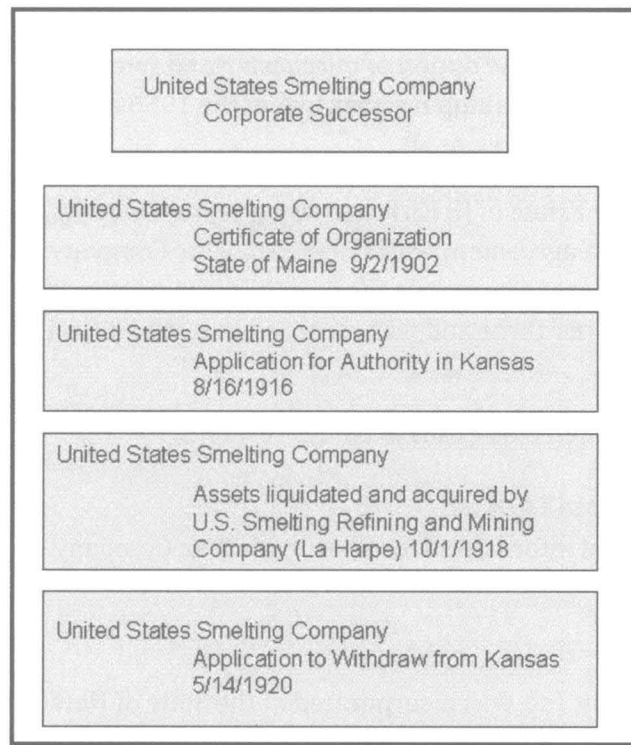


Figure 10. U.S. Smelting Company Corporate Successor

G. CHERRYVALE ZINC COMPANY

SUMMARY

Cherryvale Zinc Company did not own or lease the IMP Boats Site property. Between 1953 and 1957, the company was granted access to a cinder residue dump on-site. See below for details on the agreements.

Smelting is known to have occurred on the Site property and may be a source of the lead contamination detected in the soil at the Site. Cherryvale Zinc Company transported wastes found on the Site. According to CERCLA Section 107 (a) (3), PRP liability can be applied to Cherryvale Zinc Company because it was a transporter of smelter wastes. Cherryvale Zinc Company dissolved on August 26, 1977 and no corporate successors were located.

OWNERSHIP / LEASE HISTORY

Cherryvale Zinc Company did not own or lease the IMP Boats Site property. Between 1953 and 1957 the company was granted access to cinder residue dumps on-site. See below for details on the agreements.

Agreements

On August 28, 1953, JB Kirk entered into an agreement with Cherryvale Zinc, which was recorded in Book M52, Page 110 of the Allen County Register of Deeds. JB Kirk held a lease



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covering Tracts 5A, 5B, 6A, 6B and 6C, which contained a cinder residue dump. The agreement allows Cherryvale the option of purchasing and removing cinder residue from dump number three (renamed dump number two in the 1956 agreement) for a period of 6 months from the date of the agreement.

On October 24, 1956 the Estate of JB Kirk, deceased, represented by Stanley J. Kirk, Executor, entered into an agreement with Cherryvale Zinc Company, Inc. for the term of one year. The agreement granted Cherryvale the option of purchasing and removing cinder residue from dump number three and was recorded in Book M55 on Page 143 of the Allen County Register of Deeds.

The on-site dump contained 8,841 tons of cinder residues.

OPERATIONAL INFORMATION

CGS found no operational information for Cherryvale Zinc Company.

CORPORATE HISTORY

Incorporation

Cherryvale Zinc Company, Inc. was incorporated in the State of New York on January 1, 1950, "to carry on business to smelt, refine, and concentrate" (22). The incorporators were, Benno Elkan, C.H. Scherf, and Julian B. Beaty.

Application for Authority as a Foreign Corporation in Kansas

On February 27, 1950, Cherryvale Zinc Company applied to the Charter Board of Kansas for permission to engage in business as a foreign corporation. The application was approved February 27, 1950. The Officers listed were as follows:

Julian B. Beaty, President
O. Frohnknecht, Vice-President
C.H. Scherf, Treasurer
E. H. Mann, Secretary
Carl M. Elkan, Manager (23)

Withdraw from the State of Kansas

On February 9, 1973, Cherryvale Zinc Company, Inc. surrendered its authority to transact business in the State of Kansas. The Certificate of Withdraw was filed with the Kansas Secretary of State on May 10, 1973. (24)

Dissolution

Cherryvale Corporation dissolved by way of stockholders meeting on August 8, 1977.

R. Fred Baerwald, President and Stanley J. Titch, Secretary/Treasurer are listed as the company's only officers. The Certificate of Dissolution was filed with the New York Secretary of State on August 26, 1977. (25)



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PROPERTY BOUNDARY/SITE DESCRIPTION:

Cherryvale Zinc Company gained access to smelting waste on-site through agreements made with J.B. Kirk from 1953 through 1957. The cinder residue dump covered the southern portion of the Site property. Figure 11 shows the dump area relative to the Site boundary:



Figure 11: IMP Boats Site Dump Number Three

H. THE CITY OF IOLA, KANSAS

SUMMARY

In 1934, The City of Iola acquired Tracts 1-4 of the Site property. It sold Tracts 1, 3 and 4, but maintained ownership of Tract 2 since 1934. According to CERCLA Section 107 (a) (1), PRP liability can be applied to The City of Iola because it is a current owner of the Site property.

OWNERSHIP / LEASE HISTORY

In 1934, the J.B. Kirk Gas & Smelting Company sold its lands north of W. Lincoln Street to the City of Iola (98-299). This land was to become platted as Iola Industrial Park Number One, comprised of eight lots. Only the southern four lots are identified in this report as being within Site boundaries. It sold the area identified in this report as Tract 1 in 1962, and the areas identified as Tract 3 and Tract 4 in 1960. It has maintained ownership of Tract 2 since 1934 (2).

OPERATIONAL INFORMATION

Operational information for this site is not known.

CORPORATE HISTORY

A Dun & Bradstreet Business Information Report dated April 20, 2010 states that the City of Iola incorporated in Kansas in 1870 and is an active non-profit corporation³. The directors are as follows:

Bill Maness, Mayor
Judy Brigham, Administrator
William Shirley, Commissioner
Craig Abbott, Commissioner

PROPERTY BOUNDARY/SITE DESCRIPTION:

The City of Iola owns the portion of the Site described within this report as Tract 2, a parcel of land also described as Iola Industrial Tract Number One, Lot 2.

I. WEST BOTTOMS PROPERTY, INC.

SUMMARY

West Bottoms Property, Inc. also referred to as "Westbottom Properties, Inc." has maintained ownership of Tracts 2 and 4A since 1993. According to CERCLA Section 107 (a) (1), PRP liability can be applied to West Bottoms Property, Inc. because it is a current owner of the Site property.

³ For a full copy of the Dun & Bradstreet Report, see Attachment J: Dun & Bradstreet Reports.

OWNERSHIP / LEASE HISTORY

In 1993, Allen County, Kansas sold property to "Westbottom Properties, Inc." which included Tracts 3 and 4A (187-230). As of the date of the writing of this report, they still have ownership of the property (2).

OPERATIONAL INFORMATION

No corporate information could be found for "Westbottom Properties, Inc.," however, a Dun & Bradstreet report for "West Bottoms Property, Inc." was located⁴, and a search of the Kansas Secretary of State's records shows a corporation on file of that name with a registered office address of 504 W. Lincoln, Iola, KS (located on the corresponding area of Site property). The Dun & Bradstreet⁵ report specifies the corporation's line of business as "nonresidential building operator" (48). An aerial photograph of the site demonstrates there to be four large and numerous other structures on the property (See Figure 1: Parcel Map). This suggests that the corporation is leasing the structures on this portion of the land to commercial tenants, but no information about what businesses are currently in operation there were located.

CORPORATE HISTORY

West Bottoms Property, Inc. was formed in the state of Kansas on June 25th, 1993. The corporation is still active, but on the date of this report was delinquent for failure to file its 2009 Annual Report. The forfeiture date is listed as 7/15/2010 (2).

The registered agent is listed as West Bottoms Property, Inc., 504 W. Lincoln, Iola, Kansas, 66749 (48).

PROPERTY BOUNDARY/SITE DESCRIPTION:

West Bottom Property, Inc. (or Westbottom Properties, Inc.) owns Tracts 3 and the west portion of Tract 4, labeled 4A, which are the center two parcels of the site area (see Figure 1)

J. A.C.B., INC.**SUMMARY**

A.C.B. Inc acquired Tract 6 in 1992, and Tract 5 in 2006; it is the current owner of both tracts. According to CERCLA Section 107(a) (1), PRP liability can be applied to A.C.B. Inc., as it is a current owner of the Site property.

⁴ For a full copy of the Dun & Bradstreet Report, see Attachment J: Dun & Bradstreet Reports.

⁵ For a full copy of the Dun & Bradstreet Report, see Attachment J: Dun & Bradstreet Reports.

OWNERSHIP / LEASE HISTORY

In 1992, A.C.B., Inc. purchased the southeast portion of the Site area from the City of Iola, encompassing all of Tract 6 (185-601). In 2006, it also purchased the Tract adjacent to the west, previously occupied by the Marvin E. Boyer Oil Company (A70-563), identified in this report as Tract 5 (See Figure 1: Parcel Map). As of the date of this report, A.C.B., Inc. still owns both of these Tracts (2).

OPERATIONAL INFORMATION

A Dun & Bradstreet report was obtained for ACB, Incorporated with a business address of "Unknown, Iola, KS" that contained no specific information about the operations of the corporation or its officers⁶.

CORPORATE HISTORY

A.C.B., Inc. incorporated as a for profit corporation in the state of Kansas in 1992. The corporation is still active, but on the date of this report was delinquent for failure to file its 2009 Annual Report. The forfeiture date is listed as 7/15/2010 (2).

The registered agent/address for the corporation is James M. Immel, Four East Jackson, Iola, Kansas 66749 (18).

PROPERTY BOUNDARY/SITE DESCRIPTION:

A.C.B., Inc. currently owns all of Tract 5 and Tract 6 as identified on Figure 1 of this report. This is all of the Site area that is located on the south side of W. Lincoln St.

K. DOUGLAS D. ROSE / KENNETH ROSE**SUMMARY**

In 1992, Douglas D. Rose and Kenneth Rose, individuals, acquired Tract 1; they remain the current owners of this Site property. According to CERCLA Section 107(a) (1), PRP liability can be applied to Douglas Rose and Kenneth Rose, as they are current owners of Site property.

OWNERSHIP / LEASE HISTORY

In 1992, Douglas Rose and Kenneth Rose purchased Iola Industrial Tract 1 from Emprise Bank, who had owned it since 1985, when Iola Concrete Products suffered a mortgage foreclosure (185-187). As of the date of this report, they are still the listed owners of the property.

⁶ For a full copy of the Dun & Bradstreet Report, see Attachment J: Corporate Documents.



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OPERATIONAL INFORMATION

A general internet search of the mailing address associated with this property revealed that it is currently in use by Payless Concrete Products, Inc.

CORPORATE HISTORY

Payless Concrete Products, Inc. was incorporated in the state of Kansas in 2007. The corporation is current and active (39).

The registered agent/address is George B. Rose, 802 N. Industrial Road, P.O. box 664, Iola, Kansas 66749 (39).

PROPERTY BOUNDARY/SITE DESCRIPTION:

The Site property currently owned by Douglas Rose and Kenneth Rose is described as all of Lot 7 of Iola Industrial Tract Number One. For the purposes of this report, it is identified as all of Tract 1 (see Figure 1).

IV. NOTABLE CORPORATE OWNERS**A. IMP BOATS, INC.****SUMMARY**

EPA requested that CGS note that IMP Boats, Inc. was a current owner when the property was identified as a Site of concern. According to CERCLA Section 107(a) (1), PRP liability can apply to current owners of the Site property. At the time of submission for this report, pursuant to CERCLA Section 107 (a) (1), IMP Boats, Inc. cannot be considered a PRP. IMP Boats, Inc. is dissolved. Russo Industries, a stockowner of IMP Boats from 1985, is currently inactive.

OWNERSHIP / LEASE HISTORY

In 1978, the APECO Corporation deeded its Site property to IMP Boats, Inc. (164-109). This land included all of Tract 3, the western portion of Tract 4, identified as 4A, and all of Tract 6. Following the bankruptcy of IMP Boats, Tract 6 was deeded to the City of Iola in 1991 (182-536), and Tracts 3 and 4A were deeded to Allen County, Kansas in 1992 (185-603).

OPERATIONAL INFORMATION

IMP Boats, Inc. was a manufacturer of fiberglass boats.

CORPORATE HISTORY

IMP Boats, Inc. was incorporated in the State of Kansas in 1978 by Webster L. Gordon. The purpose of the corporation was "to engage in any lawful act or activity for which corporations may be organized under the general corporation code of Kansas". At its



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OPERATIONAL INFORMATION

A general internet search of the mailing address associated with this property revealed that it is currently in use by Payless Concrete Products, Inc.

CORPORATE HISTORY

Payless Concrete Products, Inc. was incorporated in the state of Kansas in 2007. The corporation is current and active (39).

The registered agent/address is George B. Rose, 802 N. Industrial Road, P.O. box 664, Iola, Kansas 66749 (39).

PROPERTY BOUNDARY/SITE DESCRIPTION:

The Site property currently owned by Douglas Rose and Kenneth Rose is described as all of Lot 7 of Iola Industrial Tract Number One. For the purposes of this report, it is identified as all of Tract 1 (see Figure. 1).

IV. NOTABLE CORPORATE OWNERS**A. IMP BOATS, INC.****SUMMARY**

EPA requested that CGS note that IMP Boats, Inc. was a current owner when the property was identified as a Site of concern. According to CERCLA Section 107(a) (1), PRP liability can apply to current owners of the Site property. At the time of submission for this report, pursuant to CERCLA Section 107 (a) (1), IMP Boats, Inc. cannot be considered a PRP. IMP Boats, Inc. is dissolved. Russo Industries, a stockowner of IMP Boats from 1985, is currently inactive.

OWNERSHIP / LEASE HISTORY

In 1978, the APECO Corporation deeded its Site property to IMP Boats, Inc. (164-109). This land included all of Tract 3, the western portion of Tract 4, identified as 4A, and all of Tract 6. Following the bankruptcy of IMP Boats, Tract 6 was deeded to the City of Iola in 1991 (182-536), and Tracts 3 and 4A were deeded to Allen County, Kansas in 1992 (185-603).

OPERATIONAL INFORMATION

IMP Boats, Inc. was a manufacturer of fiberglass boats.

CORPORATE HISTORY

IMP Boats, Inc. was incorporated in the State of Kansas in 1978 by Webster L. Gordon. The purpose of the corporation was "to engage in any lawful act or activity for which corporations may be organized under the general corporation code of Kansas". At its



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incorporation, the registered address and principal place of business were identified as 500 W. Lincoln Street in Iola (26)

IMP Boats changed its name in 1983 to The New IMP Boat Corporation in an Amendment to the Articles of Incorporation. In 1988, it again filed an Amendment, changing the name to International Marine Products (42, 28).

A memorandum date November 26, 1991, located in the EPA Site files, contained the following corporate information: The last annual report was filed in 1989 and listed the following officers: Donald G. Vincent – Pres.; Zoltan Olah – Secretary Treasurer; Joseph Russo – Board of Directors. All stock shares were owned by Russo Industries, Inc. Russo Industries, Inc. incorporated in the State of Texas in 1985, and is currently inactive (13).

A search of the Texas Secretary of State Corporations Division website confirmed that Russo Industries in inactive due to “Tax Forfeiture”, effective February 2, 1993 (41).

International Marine Products, Inc. was administratively dissolved by the State of Kansas due to failure to file an Annual Report, effective May 15, 1991 (27).

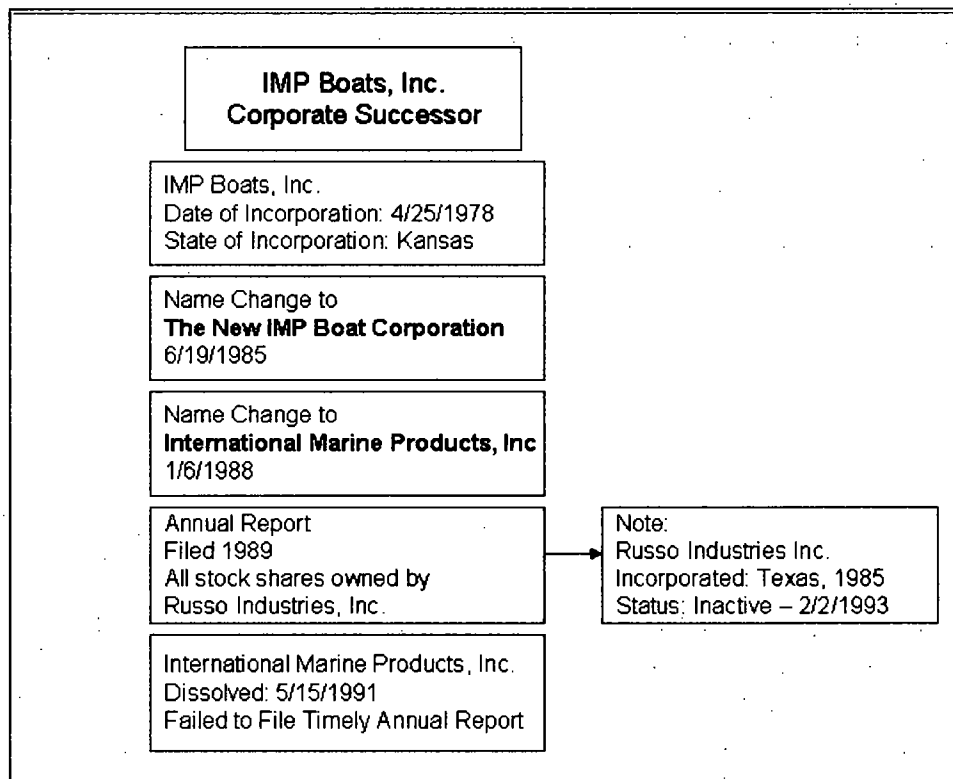


Figure 12: IMP Boats Corporate Successor

PROPERTY BOUNDARY/SITE DESCRIPTION:

For a parcel map, see Figure 1.

OPERATIONAL INFORMATION

A general internet search of the mailing address associated with this property revealed that it is currently in use by Payless Concrete Products, Inc.

CORPORATE HISTORY

Payless Concrete Products, Inc. was incorporated in the state of Kansas in 2007. The corporation is current and active (39).

The registered agent/address is George B. Rose, 802 N. Industrial Road, P.O. box 664, Iola, Kansas 66749 (39).

PROPERTY BOUNDARY/SITE DESCRIPTION:

The Site property currently owned by Douglas Rose and Kenneth Rose is described as all of Lot 7 of Iola Industrial Tract Number One. For the purposes of this report, it is identified as all of Tract 1 (see Figure 1).

IV. NOTABLE CORPORATE OWNERS

A. IMP BOATS, INC.

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EPA requested that CGS note that IMP Boats, Inc. was a current owner when the property was identified as a Site of concern. According to CERCLA Section 107(a) (1), PRP liability can apply to current owners of the Site property. At the time of submission for this report, pursuant to CERCLA Section 107 (a) (1), IMP Boats, Inc. cannot be considered a PRP. IMP Boats, Inc. is dissolved. Russo Industries, a stockowner of IMP Boats from 1985, is currently inactive.

OWNERSHIP / LEASE HISTORY

In 1978, the APECO Corporation deeded its Site property to IMP Boats, Inc. (164-109). This land included all of Tract 3, the western portion of Tract 4, identified as 4A, and all of Tract 6. Following the bankruptcy of IMP Boats, Tract 6 was deeded to the City of Iola in 1991 (182-536), and Tracts 3 and 4A were deeded to Allen County, Kansas in 1992 (185-603).

OPERATIONAL INFORMATION

IMP Boats, Inc. was a manufacturer of fiberglass boats.

CORPORATE HISTORY

IMP Boats, Inc. was incorporated in the State of Kansas in 1978 by Webster L. Gordon. The purpose of the corporation was "to engage in any lawful act or activity for which corporations may be organized under the general corporation code of Kansas". At its

V. NON-OPERATIONAL ON-SITE SMELTERS

A. LANYON ZINC SMELTING COMPANY

SUMMARY

On March 9, 1911 Lanyon Zinc Smelting Company purchased Tracts 1-4, 5C, 6B and 6C from Edmund L. Judson, the company's secretary (57-141). The company sold the land to J. B. Kirk on July 29, 1912 (M22-129).

Operations during Lanyon Zinc Smelting Company's period of ownership are unknown; therefore the company cannot be classified as a PRP. The company dissolved on August 1, 1912; no corporate successor was located (33).

VI. ADDITIONAL CORPORATE PROPERTY OWNERS

During the collection and review of Site title instruments, CGS found several corporations that owned Site property. EPA asked CGS to account for these businesses and their on-site operations. Based on the information gathered, the corporations listed cannot be classified as Potentially Responsible Parties. Business information available for these companies is provided in Table 5 of the report body and is duplicated in Attachment H: Corporate Property Owners.

Company	Dates of Ownership	Tract	Nature of business / Notes	Source
APECO Corporation / American Photocopy Equipment Corp.	1969 - 1978	3, 4, 6 (all)	Manufacture and sale of photocopy equipment.	1
Emprise Bank	1985 - 1992	1	A financial institution	2
The Iola Carriage and Omnibus Company	1887 - Unknown	5a, 6a	Manufacturer of coaches and carriages	3
Iola Concrete Products, Inc.	1972 - 1985	1	Brick and concrete block manufacturing	4
Iola Molded Plastics	1960 - 1969	3, 4, 6 (all)	Boat design and manufacture	1
Kansas City Testing Laboratories	Unknown - 1961	5b	unknown	none
Marvin E Boyer Oil Company, Inc	1969 - 2006	5 (all)	Oil drilling	none

Table 5: Corporate Property Owners



CONCLUSIONS

According to Chenega Global Services research, the following entities are considered Potentially Responsible Parties pursuant to CERCLA Section 107 (a) for the following reasons:

W. & J. Lanyon are included as PRPs based on evidence that, during their period of Site ownership, the W. & J. Lanyon Works, later renamed Lanyon Zinc Company Work No. 1, operated on-site. Smelting is known to have occurred on the Site property and may be a source of the lead contamination detected in the soil at the Site. According to CERCLA Section 107(a) (2) PRP liability can be applied to W. & J. Lanyon, as they were owners of the Site property at the time of disposal.

Robert Lanyon Son's Spelter Company operated a zinc smelter on-site during 1898 to 1899. Smelting is known to have occurred on the Site property and may be a source of the lead contamination detected in the soil at the Site. According to CERCLA Section 107(a) (2) PRP liability can be applied to Robert Lanyon Son's Spelter Company, as it was an operator of the Site property at the time of disposal. Historical evidence indicates that the company became Lanyon Zinc Company (Works No. 2) in 1899.

Lanyon Zinc Company owned Site property and operated two smelting facilities on-site from 1899 to 1911.

In a letter dated February 2, 1912, Lanyon Zinc Company's legal representatives informed the Kansas Secretary of State that the company's property was sold at mortgage foreclosure in early 1910. The law firm also claimed that Lanyon Zinc Company was a defunct corporation; no corporate successors were located. Smelting is known to have occurred on the Site property and may be a source of the lead contamination detected in the soil at the Site. According to CERCLA Section 107(a) (2) PRP liability can be applied to Lanyon Zinc Company, as it was an owner/operator of the Site property at the time of disposal.

J.B. Kirk Gas & Smelting Company, a Kansas corporation, owned portions of the Site property from 1912 to 1967. During their ownership United States Smelting Company operated the on-site smelter. In 1953, the company leased to J.B. Kirk, an individual, who then arranged for treatment of on-site cinder residues. Smelting is known to have occurred on the Site property and may be sources of the heavy metal contamination detected in the soil at the Site. According to CERCLA Section 107 (a) (2) and CERCLA Section 107 (a) (3), J.B. Kirk Gas & Smelting Company is considered a PRP because it was both an owner at the time of disposal, and an arranger for the treatment of smelter wastes. J.B. Kirk Gas & Smelting Company dissolved in 1995; no corporate successors were located.

J.B. Kirk, an individual, owned portions of the Site property from July to August of 1912. In August of 1953 he leased the Site property from J.B. Kirk Gas & Smelting Company. The same day, he established an agreement with Cherryvale Zinc Company, allowing the zinc company to access and remove cinder residues that had resulted from previous smelting activities (referred to as Dump No. 3).

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Smelting is known to have occurred on the Site property and may be a source of the lead contamination detected in the soil at the Site. In this capacity, J.B. Kirk arranged for the relocation of smelting wastes. According to CERCLA Section 107(a) (3), J.B. Kirk is considered a PRP, as he was both an owner at the time of disposal and an arranger of disposal activities. A title document from October of 1956, identified J.B. Kirk as deceased (M55-143).

United States Smelting Company owned the Site property from June 1915 to July 1916 and operated the on-site smelter from 1915 to late 1917. Smelting is known to have occurred on the Site property and may be sources of the heavy metal contamination detected in the soil at the Site. According to CERCLA Section 107 (a) (2), PRP liability can be applied to United States Smelting Company because it was an owner/operator at the time of disposal. No corporate successor was located for United State Smelting Company in relation to the IMP Boats Site property.

Cherryvale Zinc Company, a New York corporation, entered into an agreement with J.B. Kirk, lessee of the Site property, on August 28, 1953, to access and remove cinder residues that had resulted from previous smelting activities. The agreement spanned three years and was renewed at J.B. Kirk's death in 1956 for one year. Cherryvale withdrew from Kansas on May 10, 1973 and was dissolved on August 26, 1977; no corporate successors were located.

Smelting is known to have occurred on the Site property and may be a source of the lead contamination detected in the soil at the Site. According to CERCLA Section 107(a) (4), Cherryvale Zinc Company is considered a PRP, as it was a transporter of smelter wastes.

Notable Corporate Property Owners

EPA requested that CGS note that IMP Boats, Inc. was a current owner when the property was identified as a Site of concern. According to CERCLA Section 107(a) (1), PRP liability can apply to current owners of the Site property. At the time of submission for this report, pursuant to CERCLA Section 107 (a) (1), IMP Boats, Inc. cannot be considered a PRP. IMP Boats, Inc. is dissolved. Russo Industries, a stockowner of IMP Boats from 1985, is currently inactive.

Current Owners

According to CERCLA Section 107(a) (1) PRP liability can be applied to the following entities, as they are current owners of the Site property:

The City of Iola, Kansas is the current owner of Tract 2 of the Site property; the City of Iola was incorporated in Kansas in 1870 and is listed as an active non-profit corporation.

West Bottom Property, Inc. (or Westbottom Properties, Inc.) owns Tracts 3 and 4A, which are the center two parcels of the Site area. The registered agent is listed as West Bottoms Property, Inc., 504 W. Lincoln, Iola, Kansas, 66749. As of April 2010, the company is delinquent in Kansas.



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A.C.B., Inc. currently owns all of Tract 5 and Tract 6 of the Site property. As of April 2010, the Kansas Corporation is delinquent for failure to file an annual report with the Secretary of State. The registered agent/address for the corporation is James M. Immel, Four East Jackson, Iola, Kansas 66749.

Douglas Rose and Kenneth Rose purchased Iola Industrial Tract Number One Lot 7 in 1992. Their land is currently in use by Payless Concrete Products, Inc., an active Kansas corporation.



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 - c. Document 10: *Journal Entry: Mortgage Foreclosure, 2/23/1910*
 - d. Document 11: *Order of Sale, 3/4/1910*
 - e. Document 16: *Application of J.B. Kirk, Receiver, for Order to Quit Claim and Give Possession of the Rolling Mill Property, 2/24/1911*
 - f. Document 17: *Application for the Release and Discharge of the Property from the Care, Custody, Management and Possession of Receivers, 2/24/1911*
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